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Compiled by
BION M. GREGORY
Legislative Counsel

CHAPTER 1138

An act to amend Sections 16702, 16704, 16710, 17021.5, 17024.5, 17027, 17041, 17042, 17054, 17072, 17073, 17087, 17137, 17143, 17220, 17224, 17240, 17250, 17260, 17270, 17276, 17280, 17504, 17506, 17507, 17651, 17737, 17851, 17852, 17932, 18036, 18037, 18040, 18401, 18402, 18405, 18410, 18586.7, 18654, 18681.1, 18681.6, 18681.9, 18682, 18684.2, 18685.07, 18688, 18698.5, 18802, 18802.1, 18802.4, 18802.5, 18802.6, 18802.8, 18805, 19269, 19414, 19420, and 20503 of, to amend and repeal Sections 17052.6, 17052.9, 17052.13, 17053.8, 17053.9, 17053.11, 17069, 17231, and 17265 of, to add Sections 17020.1, 17020.2, 17020.3, 17020.4, 17020.9, 17020.11, 17029.5, 17043, 17073.5, 17076, 17078, 17135, 17508, 17515, 17551.5, 17560, 18177, 18178, 18431.5, 18681.5, 18683.5, 18802.9, 18803.2, 18807, and 18817.3, to add Article 4 (commencing with Section 19310) to Chapter 21 of Part 10 of Division 2 of, to add and repeal Sections 17052.4, 17052.12, 17053.13, 17053.14, 17057, 17058, 18035.5, 18161, 18513, 18534, and 18682.5 of, to add and repeal Article 5 (commencing with Section 18765) of Chapter 18.5 of Part 10 of Division 2 of, to repeal and add Sections 17054.5, 17085, 17272, 17740, 18684, 18803 of, to repeal, add, and repeal Sections 17061.5, 18152, 18504, and 18525 of, to repeal Sections 17042.5, 17052.2, 17053, 17053.1, 17054.6, 17061.3, 17082, 17084, 17088, 17090, 17091, 17134, 17138, 17139, 17140, 17142, 17144, 17149, 17205, 17211, 17225, 17225.5, 17241, 17243, 17244, 17245, 17250.5, 17252, 17252.5, 17254, 17255, 17261, 17262, 17276.5, 17288, 17323, 17503, 17505, 17510, 17513, 17552.5, 17672, 18033, 18035, 18153, 18154, 18155, 18162.5, 18169, 18172, 18173, 18175, 18176, 18681.7, and 18685 of, to repeal and add Chapter 2.1 (commencing with Section 17062) and Chapter 8 (commencing with Section 17681) of Part 10 of Division 2 of, and to repeal Chapter 15 (commencing with Section 18241) of, Part 10 of Division 2 of, the Revenue and Taxation Code, and to amend Sections 13009 and 13050 of the Unemployment Insurance Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 24, 1987. Filed with Secretary of State September 25, 1987.]

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 Personal Income Tax Fairness, Simplification, and Conformity Act of 1987."

SEC. 2. Section 16702 of the Revenue and Taxation Code is amended to read:

16702. "Generation-skipping transfer" includes every transfer subject to the tax imposed under Chapter 13 of Subtitle B of the Internal Revenue Code of 1986, as amended, where the original transferor is a resident of the State of California at the date of original transfer, or the property transferred is real or personal property in

California.

SEC. 3. Section 16704 of the Revenue and Taxation Code is amended to read:

16704. "Federal generation-skipping transfer tax" means the tax imposed by Chapter 13 of Subtitle B of the Internal Revenue Code of 1986, as amended.

SEC. 4. Section 16710 of the Revenue and Taxation Code is amended to read:

16710. (a) A tax is hereby imposed upon every generation-skipping transfer in an amount equal to the amount allowable as a credit for state generation-skipping transfer taxes under Section 2604 of the Internal Revenue Code.

(b) If any of the property transferred is real property in another state or personal property having a business situs in another state which requires the payment of a tax for which credit is received against the federal generation-skipping transfer tax, any tax due pursuant to subdivision (a) of this section shall be reduced by an amount which bears the same ratio to the total state tax credit allowable for federal generation-skipping transfer tax purposes as the value of such property taxable in such other state bears to the value of the gross generation-skipping transfer for federal generation skipping transfer tax purposes.

SEC. 5. Section 17020.1 is added to the Revenue and Taxation Code, to read:

17020.1. For purposes of this part, the term "substituted basis property" has the same meaning given that term by Section 7701(a)(42) of the Internal Revenue Code.

SEC. 6. Section 17020.2 is added to the Revenue and Taxation Code, to read:

17020.2. For purposes of this part, the term "transferred basis property" has the same meaning given that term by Section 7701(a)(43) of the Internal Revenue Code, except that reference to Subtitle A shall instead be a reference to this part.

SEC. 7. Section 17020.3 is added to the Revenue and Taxation Code, to read:

17020.3. For purposes of this part, the term "exchanged basis property" has the same meaning given that term by Section 7701(a)(44) of the Internal Revenue Code, except that reference to Subtitle A shall instead be a reference to this part.

SEC. 8. Section 17020.4 is added to the Revenue and Taxation Code, to read:

17020.4. For purposes of this part, the term "nonrecognition transaction" has the same meaning given that term by Section 7701(a)(45) of the Internal Revenue Code, except that reference to Subtitle A shall instead be a reference to this part.

SEC. 9. Section 17020.9 is added to the Revenue and Taxation Code, to read:

17020.9. For purposes of this part, the term "domestic building and loan association" has the same meaning given that term by

Section 7701(a)(19) of the Internal Revenue Code.

SEC. 10. Section 17020.11 is added to the Revenue and Taxation Code, to read:

17020.11. Section 7701(h) of the Internal Revenue Code, relating to motor vehicle operating leases, shall be applicable for purposes of this part.

SEC. 11. Section 17021.5 of the Revenue and Taxation Code is amended to read:

17021.5. For purposes of this part, marital status shall be determined in accordance with Section 7703 of the Internal Revenue Code.

SEC. 12. Section 17024.5 of the Revenue and Taxation Code is amended to read:

17024.5. (a) (1) Unless otherwise specifically provided, the terms "Internal Revenue Code," "Internal Revenue Code of 1954," or "Internal Revenue Code of 1986," for purposes of this part, mean 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) For taxable years beginning on or after January 1, 1985, and on or before December 31, 1985	January 1, 1985
(D) For taxable years beginning on or after January 1, 1986, and on or before December 31, 1986	January 1, 1986
(E) For taxable years beginning on or after January 1, 1987	January 1, 1987

(2) For purposes of subparagraphs (C) and (D) of paragraph (1), the following applies:

(A) 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.

(B) The provisions contained in Public Law 99-121, relating to the treatment of debt instruments, shall not be applicable.

(3) For taxable years beginning on and after January 1, 1987, the provisions referred to by subparagraphs (A) and (B) of paragraph (2) shall be applicable for purposes of this part in the same manner and with respect to the same obligations as the federal provisions,

except as otherwise provided in this part.

(4) 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) Except as provided in Chapter 4.5 (commencing with Section 23800) of Part 11 of Division 2, 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) Credits and credit carryovers.

(11) Nonresident aliens.

(12) Deduction for personal exemptions, as provided in Section 151 of the Internal Revenue Code.

(13) The tax on generation-skipping transfers imposed by Section 2601 of the Internal Revenue Code.

(14) 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.

(i) Unless otherwise specifically provided, when applying the Internal Revenue Code for purposes of this part, any reference to a specific provision of the Internal Revenue Code shall include modifications of that provision, if any, in this part.

SEC. 13. Section 17027 of the Revenue and Taxation Code is amended to read:

17027. For the purpose of applying the provisions of Section 79 of the Internal Revenue Code, with respect to group-term life insurance purchased for employees, for the purpose of applying the provisions of Sections 104, 105, 106, and 125 of the Internal Revenue Code with respect to accident and health insurance or accident and health plans, for the purpose of applying the provisions of Section 101(b)(2) of the Internal Revenue Code with respect to employees' death benefits, and for the purpose of applying the provisions of this part with respect to contributions to or under a stock bonus, pension, profit-sharing, or annuity plan, and with respect to distributions under such a plan, or by a trust forming part of such a plan, the term "employee" shall include a full-time life insurance salesman who is considered an employee for the purpose of Chapter 21 of the Federal Internal Revenue Code, or in the case of services performed before January 1, 1953, who would be considered an employee if his or her services were performed during 1953.

SEC. 14. Section 17029.5 is added to the Revenue and Taxation Code, to read:

17029.5. (a) The enactment of the act adding this section to the code shall not deprive any taxpayer of any carryover of a credit, excess contribution, or loss to which that taxpayer was entitled under this part, including all amendments enacted prior to January 1, 1987.

(b) The carryover of the credit, excess contribution, or loss shall be allowed to be carried forward under the act adding this section to the code for the same period of time as the taxpayer would have been entitled to carry that item forward under prior law.

(c) For purposes of applying the provisions of the act adding this section to the code, the basis or recomputed basis of any asset acquired prior to January 1, 1987, shall be determined under the law at the time the asset was acquired and any adjustments to basis shall be computed as follows:

(1) Any adjustments to basis for taxable years beginning prior to January 1, 1987, shall be computed under applicable provisions of this part, including all amendments enacted prior to January 1, 1987; and

(2) Any adjustments to basis for taxable years beginning on or after January 1, 1987, shall be computed under the applicable provisions of the act adding this section to the code.

SEC. 15. Section 17041 of the Revenue and Taxation Code is amended to read:

17041. (a) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state, except the head of a household as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $3,650	1% of the taxable income
Over $3,650 but not over $8,650	$36.50 plus 2% of the excess over $3,650
Over $8,650 but not over $13,650	$136.50 plus 4% of the excess over $8,650
Over $13,650 but not over $18,950	$336.50 plus 6% of the excess over $13,650
Over $18,950 but not over $23,950	$654.50 plus 8% of the excess over $18,950
Over $23,950	$1,054.50 plus 9.3% of the excess over $23,950

(b) There shall be imposed for each taxable year upon the entire taxable income of every nonresident or part-year resident which is derived from sources in this state, except the head of a household as defined in Section 17042, a tax which shall be equal to the tax computed under subdivision (a) as if the nonresident or part-year

resident were a resident multiplied by the ratio of California source adjusted gross income to total adjusted gross income from all sources. For purposes of computing the tax under subdivision (a) and gross income from all sources, the net operating loss deduction provided in Section 172 of the Internal Revenue Code, as modified by Section 17276, shall be computed as if the taxpayer was a resident for all prior years.

(c) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state, when such resident is the head of a household, as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $7,300	1% of the taxable income
Over $7,300 but not over $17,300	$73 plus 2% of the excess over $7,300
Over $17,300 but not over $22,300	$273 plus 4% of the excess over $17,300
Over $22,300 but not over $27,600	$473 plus 6% of the excess over $22,300
Over $27,600 but not over $32,600	$791 plus 8% of the excess over $27,600
Over $32,600	$1,191 plus 9.3% of the excess over $32,600

(d) There shall be imposed for each taxable year upon the entire taxable income of every nonresident or part-year resident which is derived from sources within this state when such nonresident or part-year resident is the head of a household, as defined in Section 17042, a tax which shall be equal to the tax computed under subdivision (c) as if the nonresident or part-year resident were a resident multiplied by the ratio of California source adjusted gross income to total adjusted gross income from all sources. For purposes of computing the tax under subdivision (c) and gross income from all sources, the net operating loss deduction provided in Section 172 of the Internal Revenue Code, as modified by Section 17276, shall be computed as if the taxpayer was a resident for all prior years.

(e) There shall be imposed for each taxable year upon the taxable income of every estate, trust, or common trust fund taxes equal to the amount computed under subdivision (a) for an individual having the same amount of taxable income.

(f) The tax imposed by this part is not a surtax.

(g) For purposes of this section, the taxation of the unearned income of a minor child who has not attained age 14 before the close

of the taxable year and who has a parent living at the close of the taxable year shall be determined in accordance with Section 1(i) of the Internal Revenue Code, relating to certain unearned income of minor children taxed as if the parent's income.

(h) For each taxable year beginning on or after January 1, 1988, the Franchise Tax Board shall recompute the income tax brackets prescribed in subdivisions (a) and (c). 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 for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) For taxable years beginning on and after January 1, 1988, and thereafter, the Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to the percentage change figure which is furnished pursuant to paragraph (1) and dividing the result by 100, the amounts of each bracket to be rounded off to the nearest one dollar ($1).

SEC. 16. Section 17042 of the Revenue and Taxation Code is amended to read:

17042. 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.

SEC. 17. Section 17042.5 of the Revenue and Taxation Code is repealed.

SEC. 18. Section 17043 is added to the Revenue and Taxation Code, to read:

17043. (a) In filing returns as provided in Article 1 (commencing with Section 18041) of Chapter 17, an individual is required to use the same filing status as that used on his or her federal income tax return for the same taxable year.

(b) In the case of a husband and wife who file a joint federal income tax return, if one spouse was a resident of this state for all of the taxable year and the other spouse was a nonresident for all or any portion of the taxable year, a joint nonresident income tax return is required to be filed.

SEC. 19. Section 17052.2 of the Revenue and Taxation Code is repealed.

SEC. 20. Section 17052.4 is added to the Revenue and Taxation Code, to read:

17052.4. (a) For taxable years beginning on or after January 1, 1987, there shall be allowed as a credit against the amount of net tax (as defined in Section 17039) an amount equal to 12 percent of the cost of a solar energy system installed on premises, used for commercial purposes, which are located in California and which are owned by the taxpayer during the taxable year. For purposes of taxpayers who lease a solar energy system pursuant to subdivision (m), the tax credit shall apply only to the principal recovery portion

of lease payments for the term of the lease not to exceed 10 years, as defined in subdivision (o), which are made during the taxable year, and to the amounts which are expended on the purchased portion of the solar energy system, including installation charges, during the taxable year. For taxable years beginning on or after January 1, 1988, and before January 1, 1989, the credit percentage allowed by this section shall be 10 percent.

(b) The solar energy tax credit shall be claimed on the state income tax return for the taxable year in which the solar energy system was installed.

(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 by the amount prescribed in subdivision (a).

(d) For purposes of computing the credit provided by this section, the cost of any solar energy system eligible for the credit shall be reduced by any grant provided by a public entity for that system.

(e) The basis of any system for which a credit is allowed shall be reduced by the amount of the credit and the amount of any grant provided by a utility or public agency for the solar energy system. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(f) With the exception of a husband and wife, if there is more than one owner of a premises on which a solar energy system is installed, each owner shall be eligible to receive the solar energy tax credit in proportion to his or her ownership interests in the premises. In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(g) In the case of a partnership, the solar energy tax credit may be divided between the partners pursuant to a written partnership agreement.

(h) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds 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.

(i) 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.

(j) Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of those 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 include, but are not 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 include, but are not 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.

(k) Taxpayers who lease a solar energy system installed on premises in California shall receive a tax credit as provided in subdivision (a), if the lessee can confirm, if necessary, by a written document signed by the lessor that (1) the lessor irrevocably elects not to claim a state tax credit for the solar energy system, and (2) 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 State Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(*l*) The State 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 are not 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.

(m) For purposes of this section, the following definitions shall apply:

(1) "Installed" means placed in a functionally operative state.

(2) "Cost" includes equipment, installation charges, and 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 the easement. 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, 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 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, and buildings or portions thereof.

(5) "Commercial purposes" means the installation of solar energy systems on premises other than single-family dwellings.

(6) "Single-family dwelling" means single-family residences, mobilehomes, and the individual units of condominiums.

"Single-family dwelling" does not include cooperatives, apartment buildings, or other similar multiple dwellings, including buildings and any other common areas of a condominium maintained by a homeowners association.

(7) (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.

"Solar energy system" includes, but is not limited to, passive thermal systems, semipassive thermal systems, active thermal systems, and photovoltaic systems.

For purposes of this section, "solar energy system" does not include solar devices for the individual function of wind energy for the production of electricity or mechanical work.

(B) Eligible solar energy systems shall have a useful life of not less than three years.

(8) "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.

(9) "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.

(10) "Active thermal system" means a system which utilizes solar devices thermally isolated from the commercial space to provide for collection, storage, or distribution of solar energy for heating or cooling.

(11) "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.

(12) "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.

(n) The provisions of this section shall not apply to any solar energy system which continues to qualify for the tax credit authorized by former Section 17052.5 (as amended by Chapter 1200 of the Statutes of 1986) by meeting the eligibility requirements of subdivision (*l*) of that section.

(o) 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 the date. However, any unused credit may be used beyond that date in accordance with subdivision (h).

SEC. 20.5. Section 17052.6 of the Revenue and Taxation Code is amended to read:

17052.6. (a) 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 30 percent of the allowable federal credit regardless of whether there is a federal tax liability.

(b) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 21. 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, 1992.

(d) This section shall remain in effect only 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. 22. Section 17052.12 is added to the Revenue and Taxation Code, to read:

17052.12. There shall be allowed as a credit against the "net tax" (as defined by Section 17039) for the taxable year an amount determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) The applicable percentage shall be 8 percent of the excess of

the qualified research expenses for the taxable year over the base period research expenses and 12 percent of the basic research payments.

(b) "Qualified research" and "basic research" shall include only research conducted in California.

(c) The provisions of Section 41(e)(7)(A) of the Internal Revenue Code, shall be modified so that "basic research," for purposes of this section, includes any basic or applied research including scientific inquiry or original investigation for the advancement of scientific or engineering knowledge or the improved effectiveness of commercial products, except that the term does not include any of the following:

(1) Basic research conducted outside California.

(2) Basic research in the social sciences, arts, or humanities.

(3) Basic research for the purpose of improving a commercial product if the improvements relate to style, taste, cosmetic, or seasonal design factors.

(4) Any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas).

(d) With the exception of a husband and wife, if two or more taxpayers share in the expenses eligible for the credit provided by this section, each taxpayer shall be eligible to receive the tax credit in proportion to his or her respective share of the expenses paid or incurred. In the case of a partnership, the tax credit may be divided between the partners pursuant to a written partnership agreement in accordance with Chapter 10 (commencing with Section 17851), which includes Section 704 of the Internal Revenue Code concerning substantial economic effect, relating to partner's distributive share. 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. The credit shall be applied first to the earliest taxable years possible.

(f) (1) This section shall apply only to amounts incurred on or after January 1, 1988, and paid or incurred before January 1, 1993.

(2) In the case of any taxable year which begins before January 1, 1988, and ends after December 31, 1987, any amount for any base period with respect to that taxable year shall be the amount which bears the same ratio to that amount for that base period as the number of days in that taxable year before January 1, 1988, bears to the total number of days in that taxable year.

(3) In the case of any taxable year which begins before January 1, 1993, and ends after December 31, 1992, any amount for any base period with respect to that taxable year shall be the amount which bears the same ratio to that amount for that base period as the number of days in that income year before January 1, 1993, bears to

the total number of days in that taxable year.

(g) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 23. 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 increase the basis of the property as otherwise required by Section 164(a) of the Internal Revenue Code 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.

(h) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 24. Section 17053 of the Revenue and Taxation Code is repealed.

SEC. 25. Section 17053.1 of the Revenue and Taxation Code is repealed.

SEC. 26. 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 one.

(2) Forty percent for qualified wages in year two.

(3) Thirty percent for qualified wages in year three.

(4) Twenty percent for qualified wages in year four.

(5) Ten percent for qualified wages in year five.

(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 "qualified wages" means that portion of hourly wages which does not exceed 150 percent of the minimum wage.

(2) "Qualified years one through five 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 is any of the following:

(i) An individual who has been determined eligible by the administrative entity of a service delivery area for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.) and who is receiving subsidized employment, training, or services funded by the federal Job Training Partnership Act, except for an individual who only receives outreach, intake, or assessment services or a combination thereof.

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) Any voluntary or mandatory registrant for the Work Incentive Demonstration Program provided for pursuant to Section 11347 of the Welfare and Institutions Code.

(iv) Any voluntary or mandatory registrant for the Employment Preparation Program provided for pursuant to Article 3.5 (commencing with Section 11325) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(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.

(*l*) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 27. 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.

(e) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 28. 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, except that the percentage requirements with respect to employment of residents of a high-density unemployment area shall be applicable only to those employees hired within the 12 months immediately preceding the date that the business seeks certification from the Department of Commerce and not to the entire workforce of the business. A business shall be a qualified business only for the purposes of this section, provided that the Department of Commerce certifies that the business meets the standards set forth in this paragraph.

(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. For the purposes of this section, participation by a prospective employee in a state or federally funded job training or work demonstration program shall not constitute employment, or effect the eligibility of an otherwise qualified employee. Qualified employee includes an otherwise qualified employee who is employed by a qualified business in the 90 days prior to its certification by the Department of Commerce as a qualified business for the purpose of becoming eligible for that certification.

(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 hourly 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 taxable 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.

(i) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 29. Section 17053.13 is added to the Revenue and Taxation Code, to read:

17053.13. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in Section 17039) an amount equal to 4 percent of the total amount of eligible income (as defined in subdivision (b)) received by a qualifying taxpayer during the taxable year.

(2) The credit allowed by this section shall not exceed forty dollars ($40) in any taxable year.

(b) For purposes of this section, "eligible income" means all of the following:

(1) The salary, wages, bonuses, allowances, and other compensation received by an individual for his or her services on extended active duty as a member of the armed forces of the United States, including any auxiliary branch thereof. For the purposes of this paragraph and paragraph (3), "extended active duty" means any period of active duty pursuant to a call or order to that duty for a period in excess of 90 days or for an indefinite period.

(2) 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.

(3) 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.

(4) Compensation and allowances received for active duty service as a member in the California National Guard or State Military Reserve for any month during any part of which that member did either of the following:

(A) Served pursuant to a declaration of emergency by the Governor in accordance with Section 143 or 146 of the Military and Veterans Code.

(B) (i) Was hospitalized as a result of wounds, disease, or injury incurred while serving under the declaration of emergency specified in subparagraph (A).

(ii) This paragraph shall not apply for any month beginning more than two years after the date of termination of the emergency specified in subparagraph (A).

(5) For purposes of paragraph (4):

(A) Service is performed only if performed on or after the date the declaration of emergency specified in subparagraph (A) of paragraph (4) is declared by the Governor and on or before the date of termination of that emergency, as designated by the Governor.

(B) "Compensation and allowances" does not include pension and retirement pay.

(c) For purposes of this section, "qualifying taxpayer" means an

individual whose adjusted gross income for the taxable year is less than twenty-seven thousand dollars ($27,000). For purposes of this subdivision, 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 credit provided by this section, half of their combined adjusted gross income shall be attributable to each spouse.

(d) This section shall remain in effect only 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. 30. Section 17053.14 is added to the Revenue and Taxation Code, to read:

17053.14. (a) There shall be allowed as a credit against "net tax" (as defined by Section 17039) an amount equal to 25 percent of the amount of political contributions made by an individual during the taxable year, including contributions which are designated pursuant to Section 18720 but not amounts deductible under Section 17283.

(b) The amount of the credit under this section shall not exceed for any taxable year the following:

(1) Fifty dollars ($50) for married couples filing joint returns, heads of households, and surviving spouses (as defined in Section 17046).

(2) Twenty-five dollars ($25) for all other individuals.

(c) 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 apply to the earliest taxable years possible.

(d) This section shall remain in effect only 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. 31. 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 fifty-one dollars ($51) for taxable years beginning on or after January 1, 1987, and before January 1, 1988, and fifty-two dollars ($52) for taxable years beginning on or after January 1, 1988.

(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 one hundred two dollars ($102) for taxable years beginning on or after January 1, 1987, and before January 1, 1988, and one hundred four dollars ($104) for taxable years beginning on or after January 1, 1988. 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) In addition to any other credit provided in this section, in the case of an individual who is 65 years of age or over by the end of the taxable year a credit of fifty-one dollars ($51) for taxable years beginning on or after January 1, 1987, and before January 1, 1988, and fifty-two dollars ($52) for taxable years beginning on or after January 1, 1988.

(d) Except as provided in paragraph (2) or (3), a credit of fifty-one dollars ($51) for taxable years beginning on or after January 1, 1987, and before January 1, 1988, and fifty-two dollars ($52) for taxable years beginning on or after January 1, 1988, 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.

(e) A credit for personal exemption of fifty-one dollars ($51) for taxable years beginning on or after January 1, 1987, and before January 1, 1988, and fifty-two dollars ($52) for taxable years beginning on or after January 1, 1988, for the taxpayer if he or she is blind at the end of his or her taxable year.

(f) A credit for personal exemption of fifty-one dollars ($51) for taxable years beginning on or after January 1, 1987, and before January 1, 1988, and fifty-two dollars ($52) for taxable years beginning on or after January 1, 1988, 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.

(g) For the purposes of this section, an individual is blind only if either: his or her central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or his or her 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.

(h) In the case of an individual with respect to whom a credit under this section is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the credit amount applicable to that individual for that individual's taxable year shall be zero.

(i) For each taxable year beginning on or after January 1, 1989, 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 1988 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 1988 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. 32. Section 17054.5 of the Revenue and Taxation Code is repealed.

SEC. 33. Section 17054.5 is added to the Revenue and Taxation Code, to read:

17054.5. (a) There shall be allowed as a credit against the "net tax" (as defined in Section 17039) for taxable years beginning on or after January 1, 1987, for a qualified joint custody head of household (as defined in subdivision (c)) an amount equal to 30 percent of the net tax. The amount of the credit under this section shall not exceed two hundred dollars ($200) for any taxable year.

(b) For each taxable year beginning on or after January 1, 1988, the Franchise Tax Board shall recompute the maximum credit prescribed in subdivision (a). 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 1987 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 1987 taxable year credit by the inflation adjustment factor provided in paragraph (2), rounded off to the nearest one dollar ($1).

(c) "Qualified joint custody head of household" means an individual who meets all of the following:

(1) Is not married at the close of the taxable year, or files a separate return and does not have his or her spouse as a member of his or her household during the entire taxable year.

(2) Maintains as his or her home a household which constitutes for the taxable year the principal place of abode for a qualifying child, as defined in subdivision (d), for no less than 146 days of the taxable year but no more than 219 days of the taxable year, under a decree of dissolution or separate maintenance, or under a written agreement between the parents prior to the issuance of a decree of dissolution or separate maintenance where the proceedings have been initiated.

(3) Furnishes over one-half the cost of maintaining the household during the taxable year.

(4) Does not qualify as a head of household under Section 17042 or as a surviving spouse under Section 17046.

(d) For purposes of this section, a "qualifying child" means a son, stepson, daughter, or stepdaughter of the taxpayer or a decendant of a son or daughter of the taxpayer, but if that son, stepson, daughter, stepdaughter, or descendant is married at the close of the taxpayer's taxable year, only if the taxpayer is entitled to a credit for the taxable year for that person under Section 17054.

SEC. 34. Section 17054.6 of the Revenue and Taxation Code is repealed.

SEC. 35. Section 17057 is added to the Revenue and Taxation Code, to read:

17057. There shall be allowed as a credit against the "net tax" (as defined by Section 17039) for the taxable year an amount determined in accordance with Section 28 of the Internal Revenue Code, except as follows:

(a) The applicable percentage shall be 15 percent of the qualified clinical testing expenses for the taxable year.

(b) Qualified clinical testing expenses include only those expenses paid or incurred by the taxpayer for such testing conducted in California.

(c) 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. The credit shall be applied first to the earliest taxable years possible.

(d) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 36. Section 17058 is added to the Revenue and Taxation Code, to read:

17058. (a) There shall be allowed as a credit against the amount of net tax (as defined in Section 17039) a state low-income housing credit in an amount equal to the amount determined in subdivision

(c), computed in accordance with the provisions of Section 42 of the Internal Revenue Code, except as otherwise provided in this section.

(b) (1) The amount of the credit allocated to any project shall be authorized by the Mortgage Bond Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) It shall have been allocated by the Mortgage Bond Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code.

(ii) It shall qualify for a credit under Section 42(h)(4)(B) of the Internal Revenue Code.

(B) The Mortgage Bond Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code.

(2) (A) The Mortgage Bond Allocation Committee shall certify to the taxpayer the amount of tax credit under this section to which the taxpayer is entitled for each year in the credit period.

(B) The taxpayer shall attach a copy of the certification to any return upon which a tax credit is claimed under this section.

(C) In the case of a failure to attach a copy of the certification for the year to the return in which a tax credit is claimed under this section, no credit under this section shall be allowed for that year until a copy of that certification is provided.

(c) Section 42(b) of the Internal Revenue Code shall be modified as follows:

(1) In the case of any qualified low-income building placed in service by the taxpayer during 1987, the term "applicable percentage" means 9 ι ercent for each of the first three years and 3 percent for the fourth year for new buildings (whether or not the building is federally subsidized) and for existing buildings.

(2) In the case of any qualified low-income building placed in service by the taxpayer after 1987 (for new buildings whether or not the building is federally subsidized and for existing buildings), the term "applicable percentage" means either of the following:

(A) For each of the first three years, the highest percentage prescribed under Section 42(b)(2) of the Internal Revenue Code, for the month in which the building is placed in service, in lieu of the percentage prescribed in Section 42(b)(1)(A) of the Internal Revenue Code.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cumulative cash distribution on the taxpayer's cash invested in the qualified

low-income housing project in an amount not to exceed 8 percent per annum. For purposes of this paragraph, if the taxpayer is a partnership or an S corporation, the limitation on return shall apply to each of the partners or the shareholders, respectively.

(2) The taxpayer shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code.

(e) The provisions of Section 42(f) of the Internal Revenue Code shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code is modified by substituting "4 taxable years" for "10 taxable years."

(2) The special rule for the first taxable year of credit period under Section 42(f)(2) of the Internal Revenue Code shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code is modified to read:

If, as of the close of the 1988 or 1989 taxable year, the qualified basis of any building exceeds the qualified basis of that building as approved for the initial allocation of credits pursuant to this section, the taxpayer shall be eligible to apply for an allocation of the credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) above for the four-year period beginning with the later of the taxable year in which the increase in qualified basis occurs or the taxable year in which the credit allocation is received.

(f) The provisions of Section 42(h) of the Internal Revenue Code shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code shall not be applicable and instead the following provisions shall be applicable:

The total amount for the four-year period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the Mortgage Bond Allocation Committee for the calendar year in which the allocation is made.

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the Mortgage Bond Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (6), and (7) of Section 42(h) of the Internal Revenue Code shall not be applicable to this section.

(g) (1) Except as provided in paragraph (2), the aggregate housing credit dollar amount which may be allocated annually by the Mortgage Bond Allocation Committee for the 1987, 1988, and 1989 calendar years pursuant to this section and Section 23610.5 shall be an amount equal to one dollar and twenty-five cents ($1.25)

multiplied by the state population in that year, as established by the Department of Finance.

(2) The portion of the aggregate housing credit dollar amount of the Mortgage Bond Allocation Committee which is not allocated for each of the calendar years may be carried over to any subsequent calendar years through 1989. Thereafter, Section 42(n)(2) of the Internal Revenue Code shall apply.

(h) (1) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto, subject to the limitation in paragraph (2).

(2) If, after the first 15 years of the compliance period, a qualified low-income housing project is not economically feasible, the taxpayer shall be entitled to remove one or more low-income units from the set-aside and rent requirements of Section 42(g) of the Internal Revenue Code as is necessary for the project to become economically feasible, provided that once a project is again economically feasible, the taxpayer designates the next available units as low-income units subject to the set-aside and rent requirements, up to the original number of low-income units, while keeping the project economically feasible.

(3) For purposes of paragraph (2), "economically feasible" means that project revenue equals or exceeds project operating expenses excluding any return on investment.

(4) For purposes of paragraph (3), "operating expenses" means the reasonable expenses necessary to operate and maintain the project in habitable condition, debt service, taxes, and reasonable reserves. For purposes of this paragraph, debt service shall not include that portion of payments of principal and interest attributable to any excess refinanced principal over the outstanding principal of the loan that was refinanced.

(i) Section 42(j) of the Internal Revenue Code shall not be applicable and the following shall be substituted in its place:

(1) The requirements of this section shall be set forth in a regulatory agreement between the Mortgage Bond Allocation Committee and the taxpayer.

(2) The regulatory agreement shall include, but not be limited to, the following:

(A) A term equal to the compliance period.

(B) A requirement that the agreement be filed in the official records of the county in which the qualified low-income housing project is located.

(C) A provision stating which state and local agencies can enforce the regulatory agreement in the event the taxpayer fails to satisfy any of the requirements of this section.

(D) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto.

(E) A provision incorporating the requirements of Section 42 of the Internal Revenue Code as modified by this section.

(F) A requirement that the taxpayer provide the Mortgage Bond Allocation Committee or its designee and the local agency that can enforce the regulatory agreement with advance notice if the taxpayer intends to reduce the number of low-income units to make a project economically feasible.

(G) A requirement that the taxpayer notify the Mortgage Bond Allocation Committee or its designee and the local agency that can enforce the regulatory agreement if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code.

(H) A requirement that the taxpayer, as security for the performance of taxpayer's obligations under the regulatory agreement, assign the taxpayer's interest in rents which it receives from the project, provided that until there is a default under the regulatory agreement, the taxpayer is entitled to collect and retain the rents.

(I) The remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period, include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the taxpayer is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance, securing the appointment of a receiver to operate the project, or any other relief as may be appropriate.

(j) In allocating the housing credit, the Mortgage Bond Allocation Committee shall give priority to qualified low-income housing projects that satisfy the following criteria, which are weighted according to the numerical order of the paragraphs listed below:

(1) Projects that have received government financing or mortgage assistance and are eligible and likely to convert to market-rate rental units.

(2) (A) Projects that commit to providing low-income units for a significantly longer period than the compliance period under this section.

(B) Projects that commit to providing a greater percentage of low-income units than is required under Section 42(g)(1) of the Internal Revenue Code.

(3) Projects that commit to charging rent for low-income units that is less than the rent requirements under Section 42(g)(2) of the Internal Revenue Code.

(4) (A) Projects for which the rate of return on cash investment is less than the rate allowed under this section.

(B) Projects targeted to those groups identified in the California Statewide Housing Plan as having special needs, including projects

that ensure that rural areas receive a proportionate share of the housing credits.

(k) Section 42(*l*) of the Internal Revenue Code shall be modified as follows:

The term "Secretary" shall be replaced by the term "Mortgage Bond Allocation Committee."

(*l*) 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, with respect to which this section shall remain in effect for purposes of carrying over excess credit, until the credit is used. The credit shall be applied first to the earliest years possible.

(m) The aggregate amount of tax credits granted pursuant to this section and Section 23610.5 shall not exceed thirty-five million dollars ($35,000,000) per year. The Mortgage Board Allocation Committee shall not authorize any credit if the total amount of credits authorized in any year under the Personal Income Tax Law and the Bank and Corporation Tax Law exceeds thirty-five million dollars ($35,000,000).

(n) 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 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, 1990.

SEC. 29. Section 17061.3 of the Revenue and Taxation Code is repealed.

SEC. 38. Section 17061.5 of the Revenue and Taxation Code is repealed.

SEC. 39. Section 17061.5 is added to the Revenue and Taxation Code, to read:

17061.5. (a) There shall be allowed as a credit against the "net tax" (as defined in Section 17039) an amount equal to the amount determined under subdivision (b).

(b) (1) In the case of qualified assets held for more than one year, but not more than five years, the amount of the credit shall be equal to 3 percent of the net capital gain, if any, from the sale or exchange of those assets.

(2) In the case of qualified assets held for more than five years, the amount of the credit shall be equal to 4½ percent of the net capital gain, if any, from the sale or exchange of those assets.

(3) If more than one qualified asset is sold or exchanged during the taxable year, each of the following shall apply:

(A) The amount of the credit allowable under paragraph (1) shall not exceed 3 percent of the net capital gain, if any, from the sale of all capital assets during the taxable year.

(B) The amount of the credit allowable under paragraph (2) shall not exceed 4½ percent of the excess of the net capital gain, if any,

from the sale of all capital assets during the taxable year over the amount of any gain for which a credit was allowed under paragraph (1).

(c) For purposes of this section, "qualified asset" means either or both of the following:

(1) Residential rental property which meets each of the following requirements:

(A) Is real property located in this state.

(B) Complies with the requirements for residential rental property specified in Section 167(j)(2)(B) of the Internal Revenue Code.

(2) Farm property which meets each of the following requirements:

(A) Is located in this state.

(B) Complies with the definition of "farm property" as specified in Section 1252(a)(2) of the Internal Revenue Code.

(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. The credit shall be applied first to the earliest taxable years possible.

(e) This section shall remain in effect only 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. 40. Chapter 2.1 (commencing with Section 17062) of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 41. Chapter 2.1 (commencing with Section 17062) is added to Part 10 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 2.1. ALTERNATIVE MINIMUM TAX

17062. (a) In addition to the other taxes imposed by this part, there is hereby imposed for each taxable year, a tax equal to the excess, if any, of—

(1) The tentative minimum tax for the taxable year, over

(2) The regular tax for the taxable year.

(b) For purposes of this chapter, each of the following shall apply:

(1) The tentative minimum tax shall be computed in accordance with Sections 55 to 59, inclusive, of the Internal Revenue Code, except as otherwise provided in this part.

(2) The regular tax shall be the amount of tax imposed by Section 17041, reduced by the sum of the credits allowable under this part other than the credits allowed under Sections 17053.5 (renter's credit), 17061 (excess contributions for state disability insurance), and 18551.5 (tax withheld).

(3) (A) The provisions of Section 55(b)(1) of the Internal Revenue Code shall be modified to provide that the tentative minimum tax for the taxable year shall be equal to 7 percent of so much of the alternative minimum taxable income for the taxable

year as exceeds the exemption amount.

(B) In the case of a nonresident or part-year resident, the tentative minimum tax shall be computed as if the nonresident or part-year resident were a resident multiplied by the ratio of California source alternative minimum taxable income to total alternative minimum taxable income from all sources.

(4) The provisions of Section 57(a)(5) of the Internal Revenue Code, relating to tax-exempt interest, shall be applied by substituting—

(A) The amount of interest income from specified private activity bonds that is exempt from tax under this part, reduced by any deduction (not allowable in computing the regular tax) which would have been allowable if that interest were included in gross income, for

(B) The amount determined under Section 57(a)(5) of the Internal Revenue Code.

(5) The provisions of Section 59(a) of the Internal Revenue Code, relating to the alternative minimum tax foreign tax credit, shall not be applicable.

17063. (a) There shall be allowed as a credit against the net tax (as defined by Section 17039) for any taxable year an amount equal to the minimum tax credit for that taxable year.

(b) For purposes of subdivision (a), the minimum tax credit shall be determined in accordance with Section 53 of the Internal Revenue Code, except as otherwise provided in this part.

(c) For purposes of this chapter, references to the "regular tax liability" in Section 53(c)(1) of the Internal Revenue Code shall be modified to refer to the regular tax as defined by paragraph (2) of subdivision (b) of Section 17062.

SEC. 42. Section 17069 of the Revenue and Taxation Code is amended 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 (i), 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 alternative minimum tax imposed in Chapter 2.1 (commencing with Section 17062), during the taxable year.

(2) Trusts or estates subject to tax under this part.

(3) Nonresidents as of the close of the taxable year for which the credit is claimed.

(4) Any taxpayer claiming a credit pursuant to Section 17052.5, 17052.7, 17052.8, or 17052.11.

(e) 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.

(f) 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.

(g) 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 paragraph (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).

(h) The credit computed pursuant to this section shall be rounded off to the nearest dollar.

(i) 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).

(j) This section shall remain in effect only 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. 43. Section 17072 of the Revenue and Taxation Code is amended to read:

17072. Adjusted gross income shall be defined by Section 62 of the Internal Revenue Code, except as otherwise provided and as follows:

(a) In the case of a life tenant of property, or an income beneficiary of property held in trust, or an heir, legatee, or devisee of an estate, the deductions for depreciation and depletion allowed by Sections 167 and 611 of the Internal Revenue Code, as modified by Sections 17682 and 17683, shall be allowed.

(b) A deduction shall be allowed as provided by Section 18161, relating to gains from sale or exchange of small business stock.

SEC. 44. Section 17073 of the Revenue and Taxation Code is amended to read:

17073. (a) Taxable income shall be defined by Section 63 of the Internal Revenue Code, except as otherwise provided.

(b) For individuals who do not itemize deductions, the standard deduction computed in accordance with Section 17073.5 shall be allowed as a deduction in computing taxable income.

SEC. 44.5. Section 17073.5 is added to the Revenue and Taxation Code, to read:

17073.5. (a) A taxpayer may elect to take a standard deduction as follows:

(1) In the case of a taxpayer, other than a head of a household or a surviving spouse (as defined in Section 17046) or a married couple filing a joint return, the standard deduction shall be one thousand eight hundred eighty dollars ($1,880).

(2) In the case of a head of household or a surviving spouse (as defined in Section 17046) or a married couple filing a joint return, the standard deduction shall be three thousand seven hundred sixty dollars ($3,760).

(b) The standard deduction provided for in subdivision (a) shall be in lieu of all deductions other than those which are to be subtracted from gross income in computing adjusted gross income under Section 17072.

(c) The provisions of this section shall be applied in lieu of the provisions of Sections 63(c), 63(f), and 63(h) of the Internal Revenue Code, relating to standard deductions.

(d) For each taxable year beginning on or after January 1, 1988, the Franchise Tax Board shall recompute the standard deduction amounts prescribed in subdivision (a). 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 for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to that portion of the percentage change figure which is furnished pursuant to paragraph

(1) and dividing the result by 100.

(3) The Franchise Tax Board shall multiply the standard deduction amounts in the preceding taxable year by the inflation adjustment factor provided in paragraph (2), rounded off to the nearest one dollar ($1).

SEC. 45. Section 17076 is added to the Revenue and Taxation Code, to read:

17076. The deductions allowed by Section 17201 shall be limited in accordance with the provisions of Section 67 of the Internal Revenue Code, relating to the 2-percent floor on miscellaneous itemized deductions.

SEC. 46. Section 17078 is added to the Revenue and Taxation Code, to read:

17078. The treatment of foreign currency transactions shall be in accordance with Section 988 of the Internal Revenue Code.

SEC. 47. Section 17082 of the Revenue and Taxation Code is repealed.

SEC. 48. Section 17084 of the Revenue and Taxation Code is repealed.

SEC. 49. Section 17085 of the Revenue and Taxation Code is repealed.

SEC. 50. Section 17085 is added to the Revenue and Taxation Code, to read:

17085. The provisions of Section 72 of the Internal Revenue Code, relating to annuities and certain proceeds of life insurance contracts, shall be modified as follows:

(a) The amendments and transitional rules made by Public Law 99-514 shall be applicable to this part for the same transactions and the same years as they are applicable for federal purposes, except that the repeal of Section 72(d) of the Internal Revenue Code, relating to repeal of special rule for employees' annuities, shall apply only to the following:

(1) Any individual whose annuity starting date is after December 31, 1986.

(2) At the election of the taxpayer, any individual whose annuity starting date is after July 1, 1986, and before January 1, 1987.

(b) The amount of a distribution from an individual retirement account or annuity that is includable in gross income for federal purposes shall be reduced for purposes of this part by the lesser of either of the following:

(1) An amount equal to the amount includable in federal gross income for the taxable year.

(2) An amount equal to the basis in the account or annuity allowed by Section 17507 remaining after adjustment for reductions in gross income under this provision in prior taxable years.

(c) The amount of the penalty imposed under this part shall be computed in accordance with Sections 72(m), (o), (q), and (t) of the Internal Revenue Code using a rate of 2½ percent, in lieu of the rate provided in those sections.

(d) The provisions of Section 72(f)(2) of the Internal Revenue Code, relating to special rules for computing employees' contributions, shall be applicable without applying the exceptions which immediately follow that paragraph.

SEC. 51. Section 17087 of the Revenue and Taxation Code is amended to read:

17087. (a) Section 86 of the Internal Revenue Code, relating to Social Security and Tier 1 Railroad Retirement Benefits, does not apply.

(b) Section 72(r) of the Internal Revenue Code, relating to Tier 2 Railroad Retirement Benefits, does not apply.

(c) Section 105(h) of the Internal Revenue Code, relating to sick pay under the Railroad Unemployment Insurance Act, does not apply.

SEC. 52. Section 17088 of the Revenue and Taxation Code is repealed.

SEC. 53. Section 17090 of the Revenue and Taxation Code is repealed.

SEC. 54. Section 17091 of the Revenue and Taxation Code is repealed.

SEC. 55. Section 17134 of the Revenue and Taxation Code is repealed.

SEC. 56. Section 17135 is added to the Revenue and Taxation Code, to read:

17135. The use of an automobile by a special agent of federal or state taxing agencies shall be treated in the manner provided for by Section 1567 of Public Law 99-514.

SEC. 57. Section 17137 of the Revenue and Taxation Code is amended to read:

17137. The exemption of earnings of ship contractors prescribed by Section 135(a)(4) of the Internal Revenue Code shall not be applicable.

SEC. 58. Section 17138 of the Revenue and Taxation Code is repealed.

SEC. 59. Section 17139 of the Revenue and Taxation Code is repealed.

SEC. 60. Section 17140 of the Revenue and Taxation Code is repealed.

SEC. 61. Section 17142 of the Revenue and Taxation Code is repealed.

SEC. 62. Section 17143 of the Revenue and Taxation Code is amended to read:

17143. The provisions of Sections 103 and 141 to 150, inclusive, of the Internal Revenue Code, relating to interest on governmental obligations, shall not be applicable.

SEC. 63. Section 17144 of the Revenue and Taxation Code is repealed.

SEC. 64. Section 17149 of the Revenue and Taxation Code is repealed.

SEC. 66. Section 17205 of the Revenue and Taxation Code is repealed.

SEC. 67. Section 17211 of the Revenue and Taxation Code is repealed.

SEC. 68. Section 17220 of the Revenue and Taxation Code is amended to read:

17220. No deduction shall be allowed for state, local, and foreign income, war profits, and excess profits taxes.

SEC. 69. Section 17224 of the Revenue and Taxation Code is amended 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, 1987, 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 December 31, 1984, for taxable years beginning before January 1, 1987, shall be allowed as a deduction in the taxable year in which the debt obligation matures or is sold, exchanged, or otherwise disposed.

SEC. 70. Section 17225 of the Revenue and Taxation Code is repealed.

SEC. 71. Section 17225.5 of the Revenue and Taxation Code is repealed.

SEC. 72. Section 17231 of the Revenue and Taxation Code is amended 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:

(1) 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).

(2) The indebtedness is incurred solely in connection with activity within the program area or enterprise zone.

(3) The taxpayer has no equity or other ownership interest in the debtor.

(c) This section shall remain in effect only until January 1, 1993,

and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 73. Section 17240 of the Revenue and Taxation Code is amended to read:

17240. 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:

(a) Substantially all the care provided by the organization is for purposes of enabling individuals to be gainfully employed.

(b) The services provided by the organization are available to the general public.

SEC. 74. Section 17241 of the Revenue and Taxation Code is repealed.

SEC. 75. Section 17243 of the Revenue and Taxation Code is repealed.

SEC. 76. Section 17244 of the Revenue and Taxation Code is repealed.

SEC. 77. Section 17245 of the Revenue and Taxation Code is repealed.

SEC. 78. Section 17250 of the Revenue and Taxation Code is amended to read:

17250. (a) (1) Section 168 of the Internal Revenue Code, relating to the accelerated cost recovery system, shall apply to assets placed in service on or after January 1, 1987, in taxable years beginning on or after January 1, 1987.

(2) In the case of assets placed in service on or after January 1, 1987, in taxable years beginning prior to January 1, 1987, a taxpayer may elect to have Sections 168 and 179 of the Internal Revenue Code apply by doing all of the following:

(A) Making an election on the return for the first taxable year beginning on or after January 1, 1987.

(B) Establishing a depreciation adjustment account for each asset (or group of assets) in an amount equal to the difference between the depreciation allowed on the federal return for each asset (or group of assets) and the depreciation allowed under this part.

(C) The depreciation adjustment account (or accounts) established under subparagraph (B) shall be amortized over 60 months beginning with the first taxable year beginning on or after January 1, 1987.

(3) In the case of assets placed in service prior to January 1, 1987, in taxable years beginning prior to January 1, 1987, Section 168 of the Internal Revenue Code shall apply only to residential rental property as provided by former Section 17250.5 (as amended by Chapter 1461 of the Statutes of 1985).

(b) For purposes of subdivision (a), Section 168 of the Internal Revenue Code shall be modified as follows:

(1) Sound recordings shall be treated as recovery property only if so elected under Section 48(s) of the Internal Revenue Code.

(2) 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.

(c) The deduction for amortization of pollution control facilities shall be determined in accordance with Section 169 of the Internal Revenue Code, except that the deduction shall be available only with respect to facilities located in this state, and the "state certifying authority," as defined in Section 169(d)(2) of the Internal Revenue Code, means the State Department of Health Services.

(d) 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. 79. Section 17250.5 of the Revenue and Taxation Code is repealed.

SEC. 80. Section 17252 of the Revenue and Taxation Code is repealed.

SEC. 81. Section 17252.5 of the Revenue and Taxation Code is repealed. be

SEC. 82. Section 17254 of the Revenue and Taxation Code is repealed.

SEC. 83. Section 17255 of the Revenue and Taxation Code is repealed.

SEC. 84. Section 17260 of the Revenue and Taxation Code is amended to read:

17260. (a) No deduction, other than depreciation shall be allowed for expenditures for tertiary injectants as provided by Section 193 of the Internal Revenue Code.

(b) Section 263(a) of the Internal Revenue Code shall not apply to expenditures for which a deduction is allowed under Section 17265.

SEC. 85. Section 17261 of the Revenue and Taxation Code is repealed.

SEC. 86. Section 17262 of the Revenue and Taxation Code is repealed.

SEC. 87. 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 and 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 for 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.

(i) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 89. Section 17270 of the Revenue and Taxation Code is amended to read:

17270. (a) For purposes of Section 162(a)(2) of the Internal Revenue Code, relating to travel expenses, all of the following shall apply:

(1) The place of residence of a member of the Legislature within the district represented shall be considered the tax home.

(2) The provisions of Section 162(h) of the Internal Revenue Code, relating to state legislators' travel expenses away from home, shall not be applied.

(b) The denial of deductions for expenses and interest relating to tax-exempt income shall be determined in accordance with Section 17280, in lieu of Section 265 of the Internal Revenue Code.

(c) The provisions of Section 280C of the Internal Revenue Code (relating to certain expenses for which credits are allowable) shall not be applicable.

(d) The provisions of Section 280D of the Internal Revenue Code (relating to credits for windfall profits tax) shall not be applicable.

SEC. 90. Section 17272 of the Revenue and Taxation Code is repealed.

SEC. 91. Section 17272 is added to the Revenue and Taxation

Code, to read:

17272. For purposes of computing the deduction allowed under Section 219 of the Internal Revenue Code, relating to retirement savings, the term "adjusted gross income" shall refer to adjusted gross income as shown on the federal tax return for the same taxable year.

SEC. 92. Section 17276 of the Revenue and Taxation Code is amended to read:

17276. The deduction provided by Section 172 of the Internal Revenue Code, relating to a net operating loss deduction, shall be modified as follows:

(a) (1) Net operating losses attributable to taxable years beginning before January 1, 1985, and on or after January 1, 1992, shall not be allowed, except for losses allowed by this section (as amended by Chapter 938 of the Statutes of 1984) and former Section 17276.5 (as amended by Chapter 158 of the Statutes of 1986).

(2) A net operating loss shall not be carried forward to any taxable year beginning before January 1, 1987.

(b) The provisions of Section 172(b)(2) of the Internal Revenue Code, relating to the amount of carryovers, shall be modified so that 50 percent of the entire amount of the net operating loss for any taxable year shall not be eligible for carryover to any subsequent taxable year.

(c) Net operating loss carrybacks shall not be allowed.

(d) Notwithstanding the provisions of Section 172(b)(1) of the Internal Revenue Code, a net operating loss attributable to a taxable year beginning on or after January 1, 1985, and before January 1, 1987, shall be a net operating loss carryover for any taxable year beginning on or after January 1, 1987, and before January 1, 1988, and for each of the two succeeding taxable years.

(e) For purposes of computing the net operating loss deduction under Section 172(a) of the Internal Revenue Code, as modified by this section, the amount of a net operating loss sustained in any taxable year during any part of which the taxpayer was not a resident of this state shall be limited to the sum of the following:

(1) The portion of the net operating loss attributable to the part of the year in which the taxpayer is a resident.

(2) The portion of the net operating loss which, during the part of the year the taxpayer is not a resident, is attributable to California source income and deductions.

SEC. 93. Section 17276.5 of the Revenue and Taxation Code is repealed.

SEC. 94. 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.

(d) No deduction shall be denied under this section for interest on a mortgage on, or real property taxes on, the home of the taxpayer by reason of the receipt of an amount as either of the following:

(1) A military housing allowance.

(2) A parsonage allowance excludable from gross income under Section 107 of the Internal Revenue Code.

SEC. 95. Section 17288 of the Revenue and Taxation Code is repealed.

SEC. 96. Section 17323 of the Revenue and Taxation Code is repealed.

SEC. 97. Section 17503 of the Revenue and Taxation Code is repealed.

SEC. 98. Section 17504 of the Revenue and Taxation Code is amended to read:

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

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

(2) The amendments (but not the transitional rules) made by Public Law 99-514 shall be applicable to this part for the same transactions and the same years as they are applicable for federal purposes, except as otherwise provided.

(b) (1) There is hereby imposed a tax on lump-sum distributions computed in accordance with the provisions of Section 402(e) of the Internal Revenue Code using the rates and brackets prescribed in subdivision (a) of Section 17041 (without regard to Section 17045) in lieu of the rates and brackets in Section 1(c) of the Internal Revenue Code. The recipient of the lump-sum distribution shall be liable for the tax imposed by this paragraph.

(2) The age 59½ requirement set forth in Section 402(e)(4)(B)(i) of the Internal Revenue Code shall not apply to any lump-sum distribution received with respect to an individual who has attained age 50 before January 1, 1986.

SEC. 99. Section 17505 of the Revenue and Taxation Code is repealed.

SEC. 100. Section 17506 of the Revenue and Taxation Code is amended to read:

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

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

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

(c) The amendments and transitional rules made by Public Law 99-514 (except the transition rules relating to Section 403(a) of the Internal Revenue Code) shall be applicable to this part for the same transactions and the same years as they are applicable for federal purposes, except as otherwise provided.

SEC. 101. 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 (Public Law 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 former Section 17272 (as amended by Chapter 1461 of the Statutes of 1985) 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, 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.

(b) 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, and before January 1, 1987, the basis of any person in such an account or annuity is the amount of contributions not allowed as a deduction under former subdivision (a), (e), or (g) of Section 17272 (as amended by Chapter 1461 of the Statutes of 1985) on account of the purchase of the account or annuity.

(2) For purposes of paragraph (1), the rules for recovery of basis shall be governed by Section 17085.

(c) 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. 102. Section 17508 is added to the Revenue and Taxation Code, to read:

17508. The provisions of Section 408(o) of the Internal Revenue Code, relating to definitions and rules relating to nondeductible contributions to individual retirement plans, shall be applicable and the information required to be reported shall be reported on the return filed pursuant to Chapter 17 (commencing with Section 18401) at the time and in the manner as specified in that section.

SEC. 103. Section 17510 of the Revenue and Taxation Code is repealed.

SEC. 104. Section 17513 of the Revenue and Taxation Code is repealed.

SEC. 105. Section 17515 is added to the Revenue and Taxation Code, to read:

17515. The special rules for designated settlement funds prescribed by Section 468B of the Internal Revenue Code shall be applicable, except as follows:

(a) The tax imposed shall be at the maximum rate imposed under Section 17041.

(b) No deduction shall be allowed for state and local taxes on, or according to, or measured by, income or profits.

SEC. 106. Section 17551.5 is added to the Revenue and Taxation Code, to read:

17551.5. (a) In the case of any taxpayer, S corporation, or partnership required to change its accounting period by the federal Tax Reform Act of 1986 (Public Law 99-514), that change shall be treated as initiated by the taxpayer, S corporation, or partnership with the consent of the Franchise Tax Board.

(b) Any income in excess of expenses for the short taxable year resulting from the change described in subdivision (a) shall be taken into account ratably in each of the first four taxable years (including the short year) beginning after December 31, 1986, unless the taxpayer, partner, or shareholder elects to include all that income in the short taxable year.

SEC. 107. Section 17552.5 of the Revenue and Taxation Code is repealed.

SEC. 108. Section 17560 is added to the Revenue and Taxation Code, to read:

17560. At the election of the taxpayer, the provisions of Section 453C of the Internal Revenue Code, relating to certain indebtedness treated as payment on installment obligations, shall not be applicable.

SEC. 109. Section 17651 of the Revenue and Taxation Code is amended to read:

17651. (a) There is hereby imposed for each taxable year on the unrelated business taxable income (as defined in Section 23732) of every trust a tax computed as provided in Section 17041. In making such computation for purposes of this section, the term "taxable income" as used in Section 17041 shall be read as "unrelated business taxable income" as defined in Section 23732.

(b) The tax imposed by subdivision (a) shall apply in the case of any trust which is exempt, except as provided in this article, from taxation under this part by reason of Section 17631 and which, if it were not for such exemption, would be subject to Chapter 9 (commencing with Section 17731) relating to estates, trusts, beneficiaries, and decedents.

SEC. 110. Section 17672 of the Revenue and Taxation Code is repealed.

SEC. 111. Chapter 8 (commencing with Section 17681) of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 112. Chapter 8 (commencing with Section 17681) is added to Part 10 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 8. NATURAL RESOURCES

17681. The taxation of natural resources shall be determined in accordance with Subchapter I of Chapter 1 of Subtitle A of the Internal Revenue Code, except as otherwise provided.

17682. The provisions of Sections 613(d), 613(e), and 613A of the Internal Revenue Code, relating to percentage depletion for oil and gas wells and geothermal deposits, shall not be applicable.

17683. The provisions of Section 613 of the Internal Revenue Code, relating to percentage depletion, shall be modified as follows:

(a) In the case of oil, gas, and geothermal wells the allowance for depletion under this part shall be 22 percent of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. The allowance shall not exceed 50 percent of the taxable income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance be less than it would be if computed without reference to this section. For purposes of the preceding sentence, the allowable deductions taken into account with respect to expenses of oil, gas, and geothermal wells in computing the taxable income from the property shall be decreased by an amount equal to so much of any gain which (1) is treated under Section 1245 of the Internal Revenue Code (relating to gain from disposition of certain depreciable property) as gain from the sale or exchange of property which is neither a capital asset nor property described in Section 1231 of the Internal Revenue Code, and (2) is properly allocable to the property.

(b) Where the total accumulated amount of deduction allowed or allowable for depletion exceeds an amount equal to the adjusted cost of the taxpayer's interest in any property which is subject to recovery through depletion under subdivision (a), percentage depletion shall be allowed in respect to those interests in that property, subject to the limitations and adjustments of subdivisions (c) and (d).

(c) Where the total depletion allowance for all properties in subdivision (b) exceeds one million five hundred thousand dollars ($1,500,000), the allowance in subdivision (b) shall be reduced by 125 percent of the excess.

(d) In any case where husband and wife file separate returns, the amount specified in subdivision (c) shall be seven hundred fifty thousand dollars ($750,000) in lieu of one million five hundred thousand dollars ($1,500,000).

(e) For purposes of this section, a "geothermal deposit" means a geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor (whether or not under pressure).

17684. The provisions of Section 621 of the Internal Revenue Code, relating to payments to encourage exploration, development, and mining for defense purposes, shall not be applicable.

SEC. 113. Section 17737 of the Revenue and Taxation Code is amended 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.) applies, that spouse shall be considered as the beneficiary for purposes of this chapter.

SEC. 114. Section 17740 of the Revenue and Taxation Code is repealed.

SEC. 115. Section 17740 is added to the Revenue and Taxation Code, to read:

17740. The beneficiaries of real estate investment trusts shall be taxed in accordance with Sections 857 and 858 of the Internal Revenue Code, except as otherwise provided.

SEC. 115.5. Section 17851 of the Revenue and Taxation Code is amended to read:

17851. The taxation of partners and partnerships shall be determined in accordance with Subchapter K of Chapter 1 of Subtitle A of the Internal Revenue Code, except as otherwise provided in this chapter and Chapter 1.5 (commencing with Section 23081) of Part 11.

SEC. 116. Section 17852 of the Revenue and Taxation Code is amended to read:

17852. In determining his or her income tax, each partner shall also take into account separately his or her distributive share of the partnership's credit for political contributions.

SEC. 117. Section 17932 of the Revenue and Taxation Code is amended to read:

17932. (a) Every partnership shall make a return for each taxable year, stating specifically the items of gross income and the deductions allowed by this part. The return shall include the names and addresses of the persons, whether residents or nonresidents, who would be entitled to share in the net income if distributed and the amount of the distributive share of each person. The return shall contain or be verified by a written declaration that it is made under the penalties of perjury, signed by one of the partners.

(b) Each partnership required to file a return under subdivision (a) for any partnership taxable year shall (on or before the day on which the return for that taxable year was required to be filed) furnish to each person who is a partner or who holds an interest in that partnership as a nominee for another person at any time during that taxable year a copy of that information required to be shown on that return as may be required by regulations.

(c) Any person who holds an interest in a partnership as a nominee for another person shall do both of the following:

(1) Furnish to the partnership, in the manner prescribed by the Franchise Tax Board, the name and address of such other person, and any other information for that taxable year as the Franchise Tax Board may by form and regulation prescribe.

(2) Furnish in the manner prescribed by the Franchise Tax Board such other person the information provided by that partnership under subdivision (b).

SEC. 118. Section 18033 of the Revenue and Taxation Code is repealed.

SEC. 119. Section 18035 of the Revenue and Taxation Code is repealed.

SEC. 120. Section 18035.5 is added to the Revenue and Taxation Code, to read:

18035.5. (a) If a qualified housing project is sold or disposed of by the taxpayer in an approved disposition, then, at the election of the taxpayer, gain from that approved disposition shall not be recognized to the extent specified in subdivision (c). An election made under this section shall be made at the time and in the manner as the Franchise Tax Board prescribes by regulations.

(b) For purposes of this section:

(1) "Qualified housing project" means a project providing rental or cooperative housing for lower income families subject to any of the following with respect to which the owner is, under those sections or regulations issued thereunder limited as to the rate of return on his or her investment in the project, and limited as to rentals or occupancy charges for units in the project:

(A) A mortgage insured by the United States Department of Housing and Urban Development under either Section 202, 213, 221(d)(3), 231, 236, or 608 of the National Housing Act.

(B) A mortgage securing a direct loan from the Farmers Home Administration of the United States Department of Agriculture under either Section 514 or 515 of the Housing Act of 1949.

(C) A Housing Assistance Payments contract under Section 8 of the United States Housing Act of 1937, where that contract provides a project-based subsidy under the New Construction, Moderate Rehabilitation, Substantial Rehabilitation, or Loan Management programs.

(2) "Approved disposition" means a sale or other disposition of a qualified housing project to a qualified entity as defined in this subdivision and subject to specific use restrictions, as defined in this subdivision.

(3) "Qualified entities" include any of the following:

(A) A nonprofit corporation that has obtained tax-exempt status under either Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.

(B) A public agency or unit of state or local government.

(C) A limited equity cooperative formed pursuant to Section 33007.5 of the Health and Safety Code.

(D) A limited partnership, of which a general partner is one of the above qualified entities, or an affiliate thereof, where a majority of the board of directors of the affiliate is appointed or removable by the qualified entity or where the qualified entity owns a majority of the voting shares of the affiliate, so long as the partnership

agreement limits the annual rate of return to investors to 8 percent of their capital contributions.

(4) A qualified entity acquiring a qualified housing project shall agree for the useful life of the project to all of the following conditions and restrictions:

(A) To assume the obligations imposed by any loan agreement, mortgage, subsidy contract, or regulatory agreement on the project.

(B) To restrict occupancy in accordance with the threshold requirements of Section 42(g) of the Internal Revenue Code where less than all of the units in the projects are occupied by tenants whose incomes make the project eligible for the tax credit under Section 42 of the Internal Revenue Code.

(C) To accept all available rent subsidies on behalf of tenants in the project.

(D) Not to evict tenants without a showing of good cause.

(E) Not to arbitrarily discriminate against applicants for admission on the basis of family income or any other basis prohibited by law.

(F) To establish rents for the project not exceeding those required by the terms of any subsidy program utilized at the project or the rent restrictions required by Section 42 of the Internal Revenue Code, whichever is less.

(G) To be subject to continued regulation by federal or state housing agencies or the Department of Housing and Community Development to ensure compliance with these regulatory requirements.

(H) To restrict occupancy in accordance with this paragraph by a deed restriction running with the land and enforceable by the Department of Housing and Community Development. Any regulatory agreement establishing these occupancy restrictions shall be deemed a contract and shall be enforceable by affected tenants as third-party beneficiaries thereto.

(c) (1) Where all units in the project are used in accordance with the standards specified in paragraph (4) of subdivision (b), and all of the units are occupied by tenants whose incomes make the project eligible for the tax credit under Section 42 of the Internal Revenue Code, then 50 percent of the gain, which would otherwise be recognized, shall not be recognizable to any extent.

(2) So long as the threshold requirements of Section 42(g) of the Internal Revenue Code are met, where less than all of the units in the project are occupied by tenants whose incomes make the project eligible for the tax credit under Section 42 of the Internal Revenue Code, then the gain shall not be recognized in accordance with the formulas for allocating the low-income housing tax credit, as provided in Section 42 of the Internal Revenue Code.

(d) Upon the receipt of information that a qualified entity is failing to use the project in accordance with the requirements of paragraph (4) of subdivision (b), then the Department of Housing and Community Development shall conduct an investigation of the

allegations. If the department determines that the qualified entity is utilizing good faith efforts to use the units in the project to the maximum extent possible in accordance with the restrictions specified in paragraph (4) of subdivision (b), and it is not economically feasible to utilize all units in that fashion, then the department shall not seek to remedy the alleged violation. If the department determines that there exists an unjustified violation of the restrictions specified in paragraph (4) of subdivision (b), then the department shall pursue whatever remedies are specified by law for that violation, including the imposition of a receivership to operate the project in accordance with the requirements of this section and recovery of a penalty from the qualified entity in the amount of the capital gains tax that was not recognized and penalties and interest for delinquent taxes as otherwise provided by law.

(e) No project on which 50 percent of the capital gains has been nonrecognized pursuant to subdivision (c) shall be sold or otherwise disposed of without the prior written approval of the Department of Housing and Community Development. In giving that approval, the department shall ensure that the project shall continue to be subject to the requirements of paragraph (2) of subdivision (b) or that any net proceeds of the sale are utilized for charitable low-income housing purposes. In determining what constitutes the net proceeds of the sale, where the seller is a qualified limited partnership entity under subparagraph (D) of paragraph (3) of subdivision (b), the Department of Housing and Community Development shall consider the terms of the partnership agreement.

(f) 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. 121. 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 former 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 those sections 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 Sections 164(a) and 1016(a) of the Internal Revenue Code, no adjustment to basis shall be made for any 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.

(3) Sales or use tax which is paid or incurred by the taxpayer in

connection with the acquisition of property for which a tax credit is claimed pursuant to Section 17052.13.

(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 be applicable.

SEC. 122. 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 not be denied because the taxpayer has, on his or her federal return, claimed an investment credit or elected to expense the asset.

SEC. 123. Section 18040 of the Revenue and Taxation Code is amended to read:

18040. The provisions of Section 1061 of the Internal Revenue Code, relating to nonrecognition of gain for certain vessels, shall not be applicable.

SEC. 125. Section 18152 of the Revenue and Taxation Code is repealed.

SEC. 126. Section 18152 is added to the Revenue and Taxation Code, to read:

18152. (a) Losses from sales or exchanges before October 1, 1987, of small business stock, as defined in Section 18161 shall be allowed only to the extent that those losses exceed any gains from those sales or exchanges, and:

(1) In the case of small business stock held for more than one year, but not more than three years, losses in excess of gain shall be reduced by 35 percent of the excess.

(2) In the case of small business stock held for more than three years, losses in excess of gains shall be reduced by 100 percent of the excess.

(b) The limitations imposed under this section shall be required to be made prior to application of the limitation on losses under Section 1211 of the Internal Revenue Code.

(c) 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. 127. Section 18153 of the Revenue and Taxation Code is repealed.

SEC. 128. Section 18154 of the Revenue and Taxation Code is repealed.

SEC. 129. Section 18155 of the Revenue and Taxation Code is repealed.

SEC. 130. Section 18161 is added to the Revenue and Taxation Code, to read:

18161. (a) If for any taxable year a taxpayer has a net capital gain from the sale or exchange of small business stock, a deduction from gross income shall be allowed as follows:

(1) In the case of small business stock held for more than one year

but not more than three years, 35 percent of the net capital gain.

(2) In the case of small business stock held for more than three years, 100 percent of the net capital gain.

(b) This section shall apply only with respect to small business stock acquired after September 16, 1981, and sold or exchanged before October 1, 1987.

(c) For purposes of this section, "small business stock" is an equity security issued by a corporation which has the following characteristics at the time of acquisition by the taxpayer:

(1) The commercial domicile or primary place of business is located within California.

(2) The total employment of the corporation is no more than 500 employees, as measured by the number of employees covered by federal unemployment insurance on December 31 of the year preceding acquisition of the small business stock, a majority of which employees were covered by California unemployment insurance on December 31 of the year preceding acquisition of the small business stock. However, if more than 50 percent of the outstanding equity securities of all classes are held by another corporation, the employment of the controlling corporation shall be counted as employment of the eligible corporation for purposes of this section.

(3) The outstanding issues of the corporations, including those held by the taxpayer, are not listed on the New York Stock Exchange, the American Stock Exchange, or the National Association of Securities Dealers Automated Quotation System.

(4) No more than 25 percent of gross receipts in the immediate prior income year were obtained from rents, interest, dividends, or sales of assets.

(5) The corporation is not engaged primarily in the business of holding land.

(6) Notwithstanding paragraph (4), "small business stock" includes an equity security issued by a corporation which has derived no more than 25 percent of its gross receipts from rents, dividends, or sales of assets during any of the first four income years following the date of its incorporation.

Paragraph (6) shall not be deemed satisfied by a corporation which issues equity securities if that corporation, for tax purposes only, liquidates its assets, in whole or in part, in anticipation of qualifying under those provisions and then subsequently reorganizes that portion of the corporation under a new name.

(d) For purposes of this section, "small business stock" does not include an equity security issued by a corporation which has either of the following characteristics in the income year immediately prior to the taxpayer's sale or exchange of the equity security:

(1) More than 25 percent of its gross receipts were obtained from rents, interest, dividends, or sales of assets.

(2) The corporation was primarily engaged in the business of holding land.

(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. 131. Section 18162.5 of the Revenue and Taxation Code is repealed.

SEC. 132. Section 18169 of the Revenue and Taxation Code is repealed.

SEC. 133. Section 18172 of the Revenue and Taxation Code is repealed.

SEC. 134. Section 18173 of the Revenue and Taxation Code is repealed.

SEC. 135. Section 18175 of the Revenue and Taxation Code is repealed.

SEC. 136. Section 18176 of the Revenue and Taxation Code is repealed.

SEC. 137. Section 18177 is added to the Revenue and Taxation Code, to read:

18177. Section 1275(a)(3) of the Internal Revenue Code (relating to the definition of tax-exempt obligations) shall not be applicable but instead the term "tax-exempt obligation" means obligations the interest of which is exempt from tax under this part.

SEC. 138. Section 18178 is added to the Revenue and Taxation Code, to read:

18178. Section 1272 of the Internal Revenue Code shall be modified as follows:

(a) For taxable years beginning on or after January 1, 1987, and before the taxable year in which the debt obligation matures or is sold, exchanged, or otherwise disposed, the amount included in gross income under this part shall be the same as the amount included in gross income on the federal tax return.

(b) The difference between the amount included in gross income on the federal return and the amount included in gross income under this part, with respect to obligations issued after December 31, 1984, for taxable years beginning before January 1, 1987, shall be included in gross income in the taxable year in which the debt obligation matures or is sold, exchanged, or otherwise disposed.

SEC. 139. Chapter 15 (commencing with Section 18241) of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 140. Section 18401 of the Revenue and Taxation Code is amended to read:

18401. Every individual taxable under this part shall make a return to the Franchise Tax Board, stating specifically the items of the individual's gross income and the deductions and credits allowed by this part, if the individual has for the taxable year—

(a) An adjusted gross income over six thousand dollars ($6,000) if single;

(b) An adjusted gross income of over twelve thousand dollars ($12,000) if married; or

(c) A gross income of over eight thousand dollars ($8,000), if single, and sixteen thousand dollars ($16,000) if married, regardless

of the amount of adjusted gross income.

SEC. 141. Section 18402 of the Revenue and Taxation Code is amended to read:

18402. If a husband and wife have for the taxable year an aggregate adjusted gross income of over twelve thousand dollars ($12,000), or an aggregate gross income of over sixteen thousand dollars ($16,000) —

(a) Each shall make such a return, or

(b) If a joint federal income tax return for the same taxable year is filed, the income of each shall be included in a single joint return, in which case the tax shall be computed on the aggregate income, as provided in Section 17045. A nonresident joint return shall be made if: (1) one spouse was a resident for the entire year and the other spouse was a nonresident for all or any portion of the taxable year (this provision shall not apply if the nonresident or his or her spouse was an active member of the armed forces of the United States or any auxiliary branch thereof during the taxable year), or (2) husband and wife have different taxable years; except that if their taxable years begin on the same day and end on different days because of the death of either or of both, then the joint return may be made with respect to the taxable year of each. The above exception shall not apply if the surviving spouse remarries before the close of his or her taxable year, nor if the taxable year of either spouse is a fractional part of a year under Section 443(a) of the Internal Revenue Code.

(c) In the case of the death of one spouse or both spouses the joint return with respect to the decedent may be made only by the decedent's executor or administrator; except that in the case of the death of one spouse the joint return may be made by the surviving spouse if (1) no return for the taxable year has been made by the decedent, (2) no executor or administrator has been appointed, and (3) no executor or administrator is appointed before the last day prescribed by law for filing the return of the surviving spouse. If an executor or administrator of the decedent is appointed after the making of the joint return by the surviving spouse, the executor or administrator may disaffirm such joint return by making, within one year after the last day prescribed by law for filing the return of the surviving spouse, a separate return for the taxable year of the decedent with respect to which the joint return was made, in which case the return made by the survivor shall constitute his or her separate return.

SEC. 142. Section 18405 of the Revenue and Taxation Code is amended to read:

18405. (a) Every fiduciary (except a receiver appointed by authority of law in possession of part only of the property of an individual) shall make a return, which shall contain or be verified by a written declaration that it is made under the penalties of perjury, for any of the following taxpayers for whom he acts, stating specifically the items of gross income of the taxpayer and the deductions and credits allowed under this part:

(1) Every individual having an adjusted gross income for the taxable year of over six thousand dollars ($6,000), if single.

(2) Every individual having an adjusted gross income for the taxable year of over twelve thousand dollars ($12,000), if married.

(3) Every individual having a gross income for the taxable year of over eight thousand dollars ($8,000), regardless of the amount of adjusted gross income.

(4) Every estate the net income of which for the taxable year is over one thousand dollars ($1,000).

(5) Every trust the net income of which for the taxable year is over one hundred dollars ($100).

(6) Every estate or trust the gross income of which for the taxable year is over eight thousand dollars ($8,000), regardless of the amount of the net income.

(7) Every decedent, for the year in which death occurred, and for prior years, if returns for such years should have been filed but have not been filed by the decedent, under such rules and regulations as the Franchise Tax Board may prescribe.

(b) The fiduciary of any estate or trust required to file a return under subdivision (a), for any taxable year shall, on or before the date on which that return was required to be filed, furnish to each beneficiary (or nominee thereof) a statement in accordance with the provisions of Section 6034A of the Internal Revenue Code.

SEC. 143. Section 18410 of the Revenue and Taxation Code is amended to read:

18410. If an individual has filed a separate return for a taxable year for which a joint return could have been made by him and his spouse under Section 18402, and the time prescribed by this part for filing the return for that taxable year has expired, that individual and his or her spouse may nevertheless make a joint return for that taxable year, provided a joint federal income tax return is made under the provisions of Section 6013(b) of the Internal Revenue Code. A joint return filed by the husband and wife in such a case shall constitute the return of the husband and wife for that taxable year, and all payments, credits, refunds, or other repayments made or allowed with respect to the separate return of either spouse for that taxable year shall be taken into account in determining the extent to which the tax based upon the joint return has been paid.

SEC. 144. Section 18431.5 is added to the Revenue and Taxation Code, to read:

18431.5. Notwithstanding any other provision of law, the Franchise Tax Board may design tax returns to provide for the designation of contributions to specified funds, as otherwise provided by law, on a separate schedule which shall be attached to the primary return form.

SEC. 145. Section 18504 of the Revenue and Taxation Code is repealed.

SEC. 145.5. Section 18504 is added to the Revenue and Taxation Code, to read:

18504. This article shall remain in effect only 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. 146. Section 18513 is added to the Revenue and Taxation Code, to read:

18513. This article shall remain in effect only 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. 147. Section 18525 of the Revenue and Taxation Code is repealed.

SEC. 147.5. Section 18525 is added to the Revenue and Taxation Code, to read:

18525. This article shall remain in effect only 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. 148. Section 18534 is added to the Revenue and Taxation Code, to read:

18534. This article shall remain in effect only 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. 149. Section 18586.7 of the Revenue and Taxation Code is amended to read:

18586.7. (a) If any person initiates a motion to quash a subpoena, as provided by Sections 7465 to 7476, inclusive, of the Government Code, and that person is the person with respect to whose liability the subpoena is issued (or is the agent, nominee, or other person acting under the direction or control of that person), then the running of any period of limitations under Section 18586 (relating to deficiency assessments) or under Section 18648 (relating to false or fraudulent returns) or Section 19404 (relating to criminal prosecutions) with respect to that person shall be suspended for the period during which a proceeding, and appeals therein, with respect to the enforcement of the subpoena is pending.

(b) In the absence of the resolution of a response to a subpoena served to a third-party recordkeeper (as defined in Section 7609 of the Internal Revenue Code) issued under Section 19254 (power of examination) the running of any period of limitations under Section 18586 (relating to deficiency assessments) or under Section 18648 (relating to false or fraudulent returns) or Section 19404 (relating to criminal prosecutions) with respect to any person whose liability the subpoena was issued (other than a person taking action as provided by subdivision (a)) shall be suspended for the period—

(1) Beginning on the date which is six months after the service of the subpoena and

(2) Ending with the final resolution of that response.

SEC. 150. Section 18654 of the Revenue and Taxation Code is amended to read:

18654. (a) If the individual who is in physical possession of cash in excess of ten thousand dollars ($10,000) does not claim that cash

in any of the capacities specified in paragraphs (1) and (2), then for purposes of Sections 18641 and 18642, it shall be presumed that the cash represents gross income of a single individual for the taxable year in which the possession occurs, and that the collection of tax will be jeopardized by delay:

(1) The cash is not claimed as his or hers.

(2) The cash is not claimed as belonging to another person whose identity the Franchise Tax Board can readily ascertain and who acknowledges ownership of that cash.

(b) In the case of any assessment resulting from the application of subdivision (a), all of the following apply:

(1) The entire amount of the cash shall be treated as taxable income for the taxable year in which the possession occurs.

(2) That income shall be treated as taxable at the maximum rate under Section 17041.

(3) Except as provided in subdivision (c), the possessor of the cash shall be treated (solely with respect to that cash) as the taxpayer for purposes of Chapter 18 (commencing with Section 18551) and Chapter 19 (commencing with Section 18801).

(c) If, after an assessment resulting from the application of subdivision (a), that assessment is abated and replaced by an assessment against the owner of the cash, that later assessment shall be treated for purposes of all laws relating to lien, levy, and collection as relating back to the date of the original assessment.

(d) For purposes of this section, the following definitions apply:

(1) "Cash" includes any cash equivalent.

(2) "Cash equivalent" means any of the following:

(A) Foreign currency.

(B) Any bearer obligation.

(C) Any medium of exchange to which both of the following apply:

(i) It is of a type which has been frequently used in illegal activities.

(ii) It is specified as a cash equivalent for purposes of this part in regulations prescribed by the Franchise Tax Board.

(3) Any cash equivalent shall be taken into account in the following manner:

(A) In the case of a bearer obligation, at its face amount.

(B) In the case of any other cash equivalent, at its fair market value.

SEC. 151. Section 18681.1 of the Revenue and Taxation Code is amended to read:

18681.1. (a) The penalty for failure to file an information return required by this part shall be determined in accordance with Section 6721 of the Internal Revenue Code.

(b) The penalty for failure to furnish a payee statement as required by this part shall be determined in accordance with Section 6722 of the Internal Revenue Code.

(c) The penalty for failure to include correct information on any

informational return or payee statement required by this part shall be determined in accordance with Section 6723 of the Internal Revenue Code.

(d) The circumstances which may constitute grounds for waiver of any penalty under this section shall be determined in accordance with the standards established by Section 6724 of the Internal Revenue Code.

(e) 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).

(f) Any penalty imposed by this part shall be paid on notice and demand by the Franchise Tax Board and in the same manner as tax.

SEC. 152. Section 18681.5 is added to the Revenue and Taxation Code, to read:

18681.5. A penalty shall be imposed for failing to meet the requirements of Section 18803.2, relating to original issue discount reporting requirements with respect to any person subject to tax under this part. The penalty shall be determined in accordance with the provisions of Section 6706 of the Internal Revenue Code.

SEC. 153. Section 18681.6 of the Revenue and Taxation Code is amended to read:

18681.6. (a) In addition to the penalty imposed by Section 18681.1 (relating to failure to file information returns), if any person, or entity fails to report amounts paid as remuneration for personal services as required under Section 13050 of the Unemployment Insurance Code or Section 18802 and 18802.2 on the date prescribed therefor (determined with regard to any extension of time for filing), that person or entity may be liable for a penalty determined under subdivision (b).

(b) For purposes of subdivision (a), the amount determined under this subdivision is the maximum rate under Section 17041 multiplied by the unreported amounts paid as remuneration for personal services.

(c) The penalty imposed by subdivision (a) shall be assessed against that person or entity required to file a return under Section 13050 of the Unemployment Insurance Code or Section 18802 or 18802.2.

(d) Article 2 (commencing with Section 18581) of Chapter 18 of this part (relating to deficiency assessments) shall not apply with respect to the assessment of collection of any penalty imposed by subdivision (a).

SEC. 154. Section 18681.7 of the Revenue and Taxation Code is

repealed.

SEC. 155. Section 18681.9 of the Revenue and Taxation Code is amended to read:

18681.9. (a) The person required by subdivision (c) 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) Any individual required to furnish information under Section 17508 as to the amount designated nondeductible contributions made for any taxable year, who overstates the amount of those contributions made for that taxable year, shall pay a penalty of one hundred dollars ($100) for each such overstatement unless it is shown that such overstatement is due to reasonable cause.

(c) 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. 156. Section 18682 of the Revenue and Taxation Code is amended 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 preceding 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 by withholding of tax on wages, as

provided by Section 13020 of the Unemployment Insurance Code; 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.

(h) Section 6654(*l*) of the Internal Revenue Code shall not apply.

(i) (1) For purposes of Section 6654(d) of the Internal Revenue Code, the term "annualized required payment" means the lesser of either of the following:

(A) Eighty percent of the tax shown on the return for the taxable year (or, if no return is filed, 80 percent of the tax for that year).

(B) One hundred percent of the tax shown on the return of the individual for the preceding taxable year.

(2) In the case of any required installment, the applicable percentage is as follows:

In the case of the following required installments:	The applicable percentage is:
1st	20
2nd	40
3rd	60
4th	80

SEC. 157. Section 18682.5 is added to the Revenue and Taxation Code, to read:

18682.5. No addition to tax shall be made under Section 18682 for any period before April 16, 1988, with respect to any underpayment, to the extent that underpayment was created or increased by any provision in the act adding this section to the code. The Franchise Tax Board shall adopt procedures, forms, and instructions to implement this section in a reasonable manner.

This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 158. Section 18683.5 is added to the Revenue and Taxation Code, to read:

18683.5. (a) Any individual who makes an election under subdivision (c) of Section 17085 and overstates the amount of consideration for the contract contributed by the employee which is recoverable during the taxable year, shall pay a penalty of one hundred dollars ($100) unless it is shown that the overstatement 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 to the assessment or collection of any penalty imposed under this section.

SEC. 159. Section 18684 of the Revenue and Taxation Code is repealed.

SEC. 160. Section 18684 is added to the Revenue and Taxation Code, to read:

18684. (a) (1) If any part of any underpayment (as defined in subdivision (c)) is due to negligence or disregard of rules or regulations, there shall be added to the tax an amount equal to the sum of the following:

(A) Five percent of the underpayment.

(B) An amount equal to 50 percent of the interest payable under Section 18688 with respect to the portion of that underpayment which is attributable to negligence for the period beginning on the last date prescribed by law for payment of that underpayment (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).

(2) There shall not be taken into account under this subdivision any portion of an underpayment attributable to fraud with respect to which a penalty is imposed under subdivision (b).

(3) For purposes of this subdivision, the term "negligence" includes any failure to make a reasonable attempt to comply with the provisions of this part, and the term "disregard" includes any careless, reckless, or intentional disregard.

(b) (1) If any part of any underpayment (as defined in subdivision (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to the sum of the following:

(A) Seventy-five percent of the portion of the underpayment which is attributable to fraud.

(B) An amount equal to 50 percent of the interest payable under Section 18688 with respect to that portion for the period beginning on the last day prescribed by law for payment of that underpayment (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.

(2) If the Franchise Tax Board establishes that any portion of an underpayment is attributable to fraud, the entire underpayment shall be treated as attributable to fraud, except with respect to any portion of the underpayment which the taxpayer established is not

attributable to fraud.

(3) In the case of a joint return, this subdivision shall not apply with respect to a spouse unless some part of the underpayment is due to the fraud of that spouse.

(c) For purposes of this section, "underpayment" means "deficiency" as defined by Section 18591.1 (except that, for this purpose, the tax shown on a return shall be taken into account only if that return was filed on or before the last day prescribed for the filing of that return, determined with regard to any extension of time for that filing).

(d) If any penalty is assessed under subdivision (b) (relating to fraud) for an underpayment of tax which is required to be shown on a return, no penalty under Section 18681 (relating to failure to file that return) or Section 18684.2 (relating to failure to pay tax) shall be assessed with respect to the portion of the underpayment which is attributable to fraud.

(e) If:

(1) A taxpayer fails to make the report required under Section 1092(a)(3)(B) of the Internal Revenue Code in the manner prescribed by that section and that failure is not due to reasonable cause, and

(2) That taxpayer has an underpayment of any tax attributable (in whole or in part) to the denial of a deduction of a loss with respect to any position (within the meaning of Section 1092(d)(2) of the Internal Revenue Code),

then that underpayment shall, for purposes of subdivision (a), be treated as an underpayment due to negligence.

(f) If:

(1) Any amount is shown on—

(A) An information return, or

(B) A return filed under Section 17932 or Section 18405 by an estate or trust, and

(2) The payee (or other person with respect to whom the return is made) fails to properly show that amount on his or her return,

any portion of an underpayment attributable to that failure shall be treated, for purposes of subdivision (a), as due to negligence in the absence of clear and convincing evidence to the contrary.

(3) This subdivision shall not apply to any information return where the amount of unreported income is less than one hundred dollars ($100).

SEC. 161. Section 18684.2 of the Revenue and Taxation Code is amended to read:

18684.2. (a) In case of failure to pay either of the following:

(1) The amount shown as tax on any return specified in this part on or before the date prescribed for payment of that tax (determined with regard to any extension of time for payment), or

(2) Any amount in respect of any tax required to be shown on a return which is not so shown (including an assessment made

pursuant to Section 18601) within 10 days of the date of the notice and demand therefor,
unless it is shown that such failure is due to reasonable cause and not due to willful neglect, a penalty is hereby imposed consisting of both of the following:

(A) Five percent of the total tax unpaid (as defined in subdivision (c)).

(B) An amount computed at the rate of 0.5 percent per month of the "remaining tax" (as defined in subdivision (d)) for each additional month or fraction thereof during which the "remaining tax" (as defined in subdivision (d)) for each additional month or fraction thereof during which the "remaining tax" is greater than zero, not to exceed 25 percent in the aggregate.

The penalty imposed by this section shall be due and payable upon notice and demand by the Franchise Tax Board. The tender of a check or money order does not constitute payment of the tax for purposes of this section unless the check or money order is paid on presentment.

(b) The penalty prescribed by subdivision (a) shall not be assessed if, for the same taxable year, the sum of any penalties imposed under Section 18681 (relating to failure to file return) and Section 18683 (relating to failure to file return after demand) is equal to or greater than the subdivision (a) penalty. In the event the penalty imposed under subdivision (a) is greater than the sum of any penalties imposed under Sections 18681 and 18683, only the subdivision (a) penalty will be assessed.

(c) For purposes of this section, total tax unpaid means the amount of tax shown on the return reduced by both of the following:

(1) The amount of any part of the tax which is paid on or before the date prescribed for filing the return.

(2) The amount of any credit against the tax which may be claimed upon the return.

(d) For purposes of this section, "remaining tax" means total tax unpaid reduced by the amount (if any) of any payment of the tax.

(e) If the amount required to be shown as a tax on a return is less than the amount shown as tax on that return, subdivision (a), subdivision (c), and subdivision (d) shall be applied by substituting that lower amount.

(f) No interest shall accrue on the portion of the penalty described in subparagraph (B) of paragraph (2) of subdivision (a).

SEC. 162. Section 18685 of the Revenue and Taxation Code is repealed.

SEC. 163. 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 or her identifying number in any return, statement, or other document,

(2) To furnish his or her 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 twenty thousand dollars ($20,000).

(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. 164. Section 18688 of the Revenue and Taxation Code is amended to read:

18688. (a) Interest upon the amount assessed as a deficiency shall be assessed, collected and paid in the same manner as the tax at the adjusted annual rate established pursuant to Section 19269 from the date prescribed for the payment of the tax until the date the tax is paid. If any portion of the deficiency is paid prior to the date it is assessed, interest shall accrue on such portion only to the date paid.

(b) If the Franchise Tax Board makes an erroneous payment to a taxpayer, that amount may be assessed and collected pursuant to Section 18601 (pertaining to mathematical errors). However, interest at the rate prescribed by Section 19269 on those amounts shall not accrue until 30 days from the date the Franchise Tax Board mails written notice demanding repayment.

(c) (1) In the case of any assessment of interest, the Franchise Tax Board may abate the assessment of all or any part of that interest for any period in either of the following circumstances:

(A) Any deficiency attributable in whole or in part to any error or delay by an officer or employee of the Franchise Tax Board (acting in his or her official capacity) in performing a ministerial act.

(B) Any payment of any tax described in Section 18583 to the

extent that any delay in that payment is attributable to that officer or employee being dilatory in performing a ministerial act.

For purposes of this paragraph, an error or delay shall be taken into account only if no significant aspect of that error or delay can be attributed to the taxpayer involved, and after the Franchise Tax Board has contacted the taxpayer in writing with respect to that deficiency or payment.

(2) The Franchise Tax Board shall abate the assessment of all interest on any erroneous refund for which an action for recovery is provided under Section 19111 until the date demand for repayment is made, unless either of the following has occurred:

(A) The taxpayer (or a related party) has in any way caused that erroneous refund.

(B) That erroneous refund exceeds fifty thousand dollars ($50,000).

SEC. 165. Section 18698.5 of the Revenue and Taxation Code is amended to read:

18698.5. If—

(a) A taxpayer fails to make the report required under Section 1092(a)(3)(B) of the Internal Revenue Code in the manner prescribed by that section and that failure is not due to reasonable cause, and

(b) That taxpayer has an underpayment of any tax attributable (in whole or in part) to the denial of a deduction of a loss with respect to any position (within the meaning of Section 1092(d)(2) of the Internal Revenue Code),

then that underpayment shall, for purposes of Section 18684, be treated as an underpayment due to negligence or disregard of rules and regulations (but without intent to defraud).

SEC. 166. Article 5 (commencing with Section 18765) is added to Chapter 18.5 of Part 10 of Division 2 of the Revenue and Taxation Code, to read:

Article 5. Repealer

18765. This chapter shall remain in effect only 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. 167. Section 18802 of the Revenue and Taxation Code is amended to read:

18802. (a) Every individual, partnership, corporation, joint stock company or association, insurance company, business trust, or so-called Massachusetts trust, engaged in a trade or business in this state and making payment in the course of such trade or business to another person, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of this state or any political subdivision of this state, or any city organized under a freeholder's charter, or any political body not a subdivision or agency of the state, having the control, receipt,

custody, disposal, or payment of interest (other than interest coupons payable to bearer), dividends, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income amounting to six hundred dollars ($600) or over, paid or payable during any year to any taxpayer, shall make a complete return to the Franchise Tax Board, which shall contain or be verified by a written declaration that it is made under the penalties of perjury, under such regulations and in such form and manner and to such extent as may be prescribed by it.

(b) For purposes of subdivision (a), the term "trade or business" includes the activities of nonprofit organizations.

(c) In cases of annuities with an annuity starting date on and after January 1, 1968, in lieu of the return required by subdivision (a), a duplicate copy of the federal return may be filed with the Franchise Tax Board.

(d) Every entity required to make a return under subdivision (a) shall furnish to each person whose name is required to be set forth in the return a written statement showing—

(1) The name, address, and identification number of the entity required to make the return, and

(2) The aggregate amount of payments to the person required to be shown on the return.

The written statement required under this subdivision shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subdivision (a) was required to be made.

(e) This section shall not apply to tips with respect to which Section 13055 of the Unemployment Insurance Code applies. The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts and copies of statements furnished by employees under Section 13055 of the Unemployment Insurance Code. This subdivision shall apply to payments made after December 31, 1978.

(f) The amendments to this section made by the 1981–82 Regular Session of the Legislature shall apply to returns and statements required to be furnished after December 31, 1981.

SEC. 168. 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 both of the following:

(1) The name and address of each patron to whom it has made those allocations amounting to one hundred dollars ($100) or more

during the calendar year.

(2) The amount of those 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 (commencing with Section 23701) of Chapter 4 of Part 11.

(b) Every cooperative required to make a return under subdivision (a) shall furnish to each person whose name is required to be set forth in that return a written statement showing both of the following:

(1) The name and address of the cooperative required to make that return.

(2) The aggregate amount of the allocations required to be made 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 which includes adequate notice that the statement is enclosed) to the person on or before January 31 of the year following the calendar year for which the return under subdivision (a) was required to be made, and shall be in the form which the Franchise Tax Board may prescribe.

SEC. 169. Section 18802.4 of the Revenue and Taxation Code is amended to read:

18802.4. (a) Every person doing business as a broker shall, when required by the Franchise Tax Board, make a return, in accordance with regulations as the Franchise Tax Board may prescribe, showing the name and address of each customer, with such details regarding gross proceeds and any other information which the Franchise Tax Board may by forms or regulations require with respect to that business.

(b) (1) Every person required to make a return under subdivision (a) shall furnish to each customer whose name is required to be set forth in that return a written statement showing all of the following:

(A) The name and address of the person required to make that return.

(B) The information required to be shown on that return with respect to that customer.

(2) The written statement required under paragraph (1) shall be furnished to the customer on or before January 31 of the year following the calendar year for which the return under subdivision (a) was required to be made.

(c) For purposes of this section:

(1) The term "broker" includes any of the following:

(A) A dealer.

(B) A barter exchange.

(C) Any other person, who, for a consideration, regularly acts as a middleman with respect to personal property or services.

(2) The term "customer" means any person for whom the broker has transacted any business.

(3) The term "barter exchange" means any organization of members providing personal property or services who jointly contract to trade or barter that personal property or services.

(d) In lieu of the return required by this section, a copy of the similar return filed with the Internal Revenue Service pursuant to Section 6045 of the Internal Revenue Code, and the regulations adopted thereto, may be filed with the Franchise Tax Board.

SEC. 170. Section 18802.5 of the Revenue and Taxation Code is amended to read:

18802.5. (a) Every employer who during any calendar year provides group-term life insurance on the life of an employee during part or all of the calendar year under a policy (or policies) carried directly or indirectly by the employer shall make a return according to the forms or regulations prescribed by the Franchise Tax Board, setting forth the cost of the insurance and the name and address of the employee on whose life the insurance is provided, but only to the extent that the cost of the insurance is includable in the employee's gross income under Section 79(a) of the Internal Revenue Code. For purposes of this section, the extent to which the cost of group-term life insurance is includable in the employee's gross income under Section 79(a) of the Internal Revenue Code shall be determined as if the employer were the only employer paying the employee remuneration in the form of that insurance.

(b) Every employer required to make a return under subdivision (a) shall furnish to each employee whose name is required to be set forth in the return a written statement showing the cost of the group-term life insurance shown on the return. The written statement required under the preceding sentence shall be furnished to the employee on or before January 31 of the year following the calendar year for which the return under subdivision (a) was required to be made.

SEC. 171. Section 18802.6 of the Revenue and Taxation Code is amended 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.

(6) Section 6050N of the Internal Revenue Code, relating to returns regarding payments of royalties.

(7) Section 6039C of the Internal Revenue Code, relating to returns with respect to foreign persons holding direct investments in United States real property interests, if that person holds a direct investment in a California real property interest as defined in Section 18805.

(b) Every person required to make a return under subdivision (a) shall also furnish a statement to each person whose name is required to be set forth in the return, as 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. 172. Section 18802.8 of the Revenue and Taxation Code is amended to read:

18802.8. (a) The operator of a boat on which one or more individuals, during a calendar year, perform services described in subdivision (o) of Section 13009 of the Unemployment Insurance Code shall submit to the Franchise Tax Board (at such time, and in such manner and form, as the Franchise Tax Board shall by regulations prescribe) information respecting—

(1) The identity of each individual performing those services;

(2) The percentage of each such individual's share of the catches of fish or other forms of aquatic animal life, and the percentage of the operator's share of those catches;

(3) If that individual receives his or her share in kind, the type and weight of that share, together with such other information as the Franchise Tax Board may prescribe by regulations reasonably necessary to determine the value of those shares; and

(4) If that individual receives a share of the proceeds of those catches, the amount so received.

(b) Every person required to make a return under subdivision (a) shall furnish to each person whose name is required to be set forth in that return a written statement showing the information relating to that person contained in that return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subdivision (a) was required to be made.

SEC. 173. Section 18802.9 is added to the Revenue and Taxation Code, to read:

18802.9. (a) The head of every state agency (as defined by Section 11000 of the Government Code) entering into any contract shall make a return (at the time and in the form the Franchise Tax Board may by regulation prescribe) setting forth all of the following:

(1) The name, address, and identification number of each person

with which that agency entered into a contract during the calendar year.

(2) Any other information the Franchise Tax Board may require.

(b) To the extent provided in regulations, this section also shall apply to any of the following:

(1) Licenses granted by state agencies.

(2) Subcontracts under contracts to which subdivision (a) applies.

(c) This section shall not apply to contracts or licenses in any class which are below a minimum amount or value which may be prescribed by the Franchise Tax Board for that class.

SEC. 174. Section 18803 of the Revenue and Taxation Code is repealed.

SEC. 175. Section 18803 is added to the Revenue and Taxation Code, to read:

18803. (a) Any person required to file an information return with the Internal Revenue Service under Section 6049 of the Internal Revenue Code (relating to payment of interest) or Section 6042 of the Internal Revenue Code (relating to payment of dividends) shall be required to report that information to the Franchise Tax Board.

(b) 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, as required to do so by the Internal Revenue Code.

SEC. 176. Section 18803.2 is added to the Revenue and Taxation Code, to read:

18803.2. A copy of the information furnished pursuant to Section 1275(c)(2) of the Internal Revenue Code shall be provided to the Franchise Tax Board by any issuer subject to tax under this part at the time and in the manner required by the Franchise Tax Board.

SEC. 177. Section 18805 of the Revenue and Taxation Code is amended to read:

18805. (a) (1) The Franchise Tax Board may, by regulation require any person, in whatever capacity acting (including lessees or mortgagors of real or personal property, fiduciaries, employers, and any officer or department of the state or any political subdivision or agency of the state, or any city organized under a freeholder's charter, or any political body not a subdivision or agency of the state) having the control, receipt, custody, disposal, or payment of items of income specified in subdivision (b), to withhold an amount, determined by the Franchise Tax Board to reasonably represent the amount of tax due when such items of income are included with other income of the taxpayer, and to transmit the amount withheld to the Franchise Tax Board at such time as it may designate.

(2) In the case of any disposition of a California real property interest by a person subject to Section 1445 of the Internal Revenue Code, relating to withholding of tax on dispositions of United States real property interests, the transferee shall be required to deduct and withhold a tax equal to one-third of the amount required to be withheld by the transferee under Section 1445 of the Internal Revenue Code.

(b) The items of income referred to in subdivision (a) are interest, dividends, rent, prizes and winnings, premiums, annuities, emoluments, compensation for personal services, and other fixed or determinable annual or periodical gains, profits and income.

(c) The Franchise Tax Board may authorize the tax under subdivision (a) to be deducted and withheld from the interest upon any securities the owners of which are not known to the withholding agent.

(d) "California real property interest" means an interest in real property described in Section 897(c)(1)(A)(i) of the Internal Revenue Code which is located in California.

SEC. 178. Section 18807 is added to the Revenue and Taxation Code, to read:

18807. Withholding of tax on amounts paid by partnerships to foreign partners shall be determined in accordance with Section 1446 of the Internal Revenue Code. However, that tax shall be withheld at the maximum tax rate specified in Section 17041, rather than the rate specified in Section 1446(a) of the Internal Revenue Code.

SEC. 179. Section 18817.3 is added to the Revenue and Taxation Code, to read:

18817.3. (a) There shall be exempt from levy, under this chapter, all of the following:

(1) Those items of wearing apparel and those schoolbooks as are necessary for the taxpayer or for members of his or her family.

(2) If the taxpayer is the head of a family, so much of the fuel, provisions, furniture, and personal effects in his or her household, and of the arms for personal use, livestock, and poultry of the taxpayer, as does not exceed one thousand five hundred dollars ($1,500) in value.

(3) So many of the books and tools necessary for the trade, business, or profession of the taxpayer as do not exceed in the aggregate one thousand dollars ($1,000) in value.

(4) Any amount payable to an individual with respect to his or her unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States, of any state, or of the District of Columbia or of the Commonwealth of Puerto Rico.

(5) Mail, addressed to any person, which has not been delivered to the addressee.

(6) Annuity or pension payments under the Railroad Retirement Act, benefits under the Railroad Unemployment Insurance Act, special pension payments received by a person whose name has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor roll (38 U.S.C. Sec. 562), and annuities based on retired or retainer pay under Chapter 73 of Title 10 of the United States Code.

(7) Any amount payable to an individual as worker's compensation (including any portion thereof payable with respect to dependents) under a worker's compensation law of the United States, any state, the District of Columbia, or the Commonwealth of

Puerto Rico.

(8) If the taxpayer is required by judgment of a court of competent jurisdiction, entered prior to the date of levy, to contribute to the support of his or her minor children, so much of his or her salary, wages, or other income as is necessary to comply with that judgment.

(9) Any amount payable to or received by an individual as wages or salary for personal services, or as income derived from other sources, during any period, to the extent that the total of those amounts payable to or received by him or her during that period does not exceed the applicable exempt amount determined under subdivision (d).

(10) Any amount payable to an individual as a service-connected (within the meaning of Section 101(16) of Title 38, United States Code) disability benefit under any of the following:

(A) Subchapter II, IV, or VI of Chapter 11 of that Title 38.

(B) Subchapter I, II, or III of Chapter 19 of that Title 38.

(C) Chapter 21, 31, 32, 34, 35, 37, or 39 of that Title 38.

(b) The officer seizing property of the type described in subdivision (a) shall appraise and set aside to the owner the amount of that property declared to be exempt. If the taxpayer objects at the time of the seizure to the valuation fixed by the officer making the seizure, the Franchise Tax Board shall summon three disinterested individuals who shall make the valuation.

(c) Notwithstanding any other law, (including Section 207 of the federal Social Security Act), no property or rights to property shall be exempt from levy other than the property specifically made exempt by subdivision (a).

(1) In the case of an individual who is paid or receives all of his or her wages, salary, and other income on a weekly basis, the amount of the wages, salary, and other income payable to or received by him or her during any week which is exempt from levy under paragraph (9) of subdivision (a) shall be:

(A) Seventy-five dollars ($75), plus

(B) Twenty-five dollars ($25) for each individual who is specified in a written statement which is submitted to the person on whom notice of levy is served and which is verified in such manner as the Franchise Tax Board shall prescribe by regulations and—

(i) Over half of whose support for the payroll period was received from the taxpayer,

(ii) Who is the spouse of the taxpayer, or who bears a relationship to the taxpayer specified in paragraphs (1) to (9), inclusive, of Section 152(a) of the Internal Revenue Code (relating to definition of dependents), and

(iii) Who is not a minor child of the taxpayer with respect to whom amounts are exempt from levy under paragraph (8) of subdivision (a) for the payroll period.

For purposes of clause (ii) of subparagraph (B) of the preceding sentence, "payroll period" shall be substituted for "taxable year"

each place it appears in paragraph (9) of Section 152(a) of the Internal Revenue Code.

(2) In the case of any individual not described in paragraph (1), the amount of the wages, salary, and other income payable to or received by him or her during any applicable pay period or other fiscal period (as determined under regulations prescribed by the Franchise Tax Board) which is exempt from levy under paragraph (9) of subdivision (a) shall be an amount (determined under those regulations) which as nearly as possible will result in the same total exemption from levy for that individual over a period of time as he or she would have under paragraph (1) if (during that period of time) he or she were paid or received those wages, salary, and other income on a regular weekly basis.

SEC. 180. 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 determined in accordance with the provisions of Section 6621 of the Internal Revenue Code, except that the overpayment rate specified in Section 6621(a)(1) of the Internal Revenue Code shall be modified to be equal to the underpayment rate determined under Section 6621(a)(2) of the Internal Revenue Code.

(b) (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. 181. Article 4 (commencing with Section 19310) is added to Chapter 21 of Part 10 of Division 2 of the Revenue and Taxation Code, to read:

Article 4. Tax Forms

19310. In enacting this article, the Legislature finds and declares that for most taxpayers in most ordinary circumstances, the burden of preparing tax returns could be greatly reduced by the availability of state tax forms which would allow taxpayers to copy numbers from the federal return, make simple adjustments, look up the tax in published tax tables, subtract state tax credits, and either pay the amount due or file for a refund.

19311. For taxable years beginning on or after January 1, 1987, the Franchise Tax Board shall make available to taxpayers tax forms which are as simple as possible for taxpayers to prepare. These forms shall be designed to provide for taxpayers to copy figures from, or attach a copy of, their federal return or portions thereof, or both, and to make any necessary adjustments.

The Franchise Tax Board shall, in preparing tax forms, make every effort to ease taxpayers' compliance burden, including, but not limited to, (a) designing forms so that, to the maximum extent possible, items already entered on the federal return may be copied to the state form, (b) reducing the number of state schedules by attaching copies of comparable federal schedules to the state return, where appropriate, and (c) choosing a weight and quality of paper, color of ink, and general form design which will facilitate the preparation of returns.

SEC. 182. Section 19414 of the Revenue and Taxation Code is amended to read:

19414. Whenever it appears to the State Board of Equalization or any court of record of this state that proceedings before it under this part have been instituted or maintained by the taxpayer primarily for delay or that the taxpayer's position in the proceedings is frivolous or groundless, or that the taxpayer unreasonably failed to pursue available administrative remedies, a penalty in an amount not in excess of five thousand dollars ($5,000) shall be imposed. Any penalty so imposed shall be paid upon notice and demand from the Franchise Tax Board and shall be collected as a tax.

SEC. 183. Section 19420 of the Revenue and Taxation Code is amended to read:

19420. (a) In the case of any civil proceeding which is—

(1) Brought by or against the State of California in connection with the determination, collection, or refund of any tax, interest, or penalty under this part, and

(2) Brought in a court of record of this state, the prevailing party may be awarded a judgment for reasonable litigation costs incurred in that proceeding.

(b) (1) A judgment for reasonable litigation costs shall not be awarded under subdivision (a) unless the court determines that the prevailing party has exhausted the administrative remedies available to that party under this part.

(2) An award under subdivision (a) shall be made only for reasonable litigation costs which are allocable to the State of California and not to any other party to the action or proceeding.

(3) (A) No award for reasonable litigation costs may be made under subdivision (a) with respect to any declaratory judgment proceeding.

(B) Subparagraph (A) shall not apply to any proceeding which involves the revocation of a determination that the organization is described in Section 23701d.

(4) No award for reasonable litigation costs may be made under

subdivision (a) with respect to any portion of the civil proceeding during which the prevailing party has unreasonably protracted that proceeding.

(c) For purposes of this section—

(1) The term "reasonable litigation costs" includes any of the following:

(A) Reasonable court costs.

(B) Based upon prevailing market rates for the kind or quality of services furnished any of the following:

(i) The reasonable expenses of expert witnesses in connection with the civil proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the State of California.

(ii) The reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case.

(iii) Reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding, except that those fees shall not be in excess of seventy-five dollars ($75) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding, justifies a higher rate.

(2) (A) The term "prevailing party" means any party to any proceeding described in subdivision (a) (other than the State of California or any creditor of the taxpayer involved) which—

(i) Establishes that the position of the State of California in the civil proceeding was not substantially justified, and

(ii) (I) Has substantially prevailed with respect to the amount in controversy, or

(II) Has substantially prevailed with respect to the most significant issue or set of issues presented.

(B) Any determination under subparagraph (A) as to whether a party is a prevailing party shall be made—

(i) By the court, or

(ii) By agreement of the parties.

(3) The term "civil proceeding" includes a civil action.

(d) For purposes of this section, in the case of—

(1) Multiple actions which could have been joined or consolidated, or

(2) A case or cases involving a return or returns of the same taxpayer (including joint returns of married individuals) which could have been joined in a single proceeding in the same court, such actions or cases shall be treated as one civil proceeding regardless of whether such joinder or consolidation actually occurs, unless the court in which such action is brought determines, in its discretion, that it would be inappropriate to treat such actions or cases as joined or consolidated for purposes of this section.

(e) An order granting or denying an award for reasonable litigation costs under subdivision (a), in whole or in part, shall be

incorporated as a part of the decision or judgment in the case and shall be subject to appeal in the same manner as the decision or judgment.

(f) For purposes of this section, the term "position of the State of California" includes either of the following:

(1) The position taken by the State of California in the civil proceeding.

(2) Any administrative action or inaction by the Franchise Tax Board (and all subsequent administrative action or inaction) upon which that proceeding is based.

SEC. 184. Section 20503 of the Revenue and Taxation Code is amended to read:

20503. (a) "Income" means adjusted gross income as defined in Section 17072 plus the following cash items:

(1) Public assistance and relief;

(2) Gross amount of pensions and annuities;

(3) Social security benefits (except Medi-Care);

(4) Railroad retirement benefits;

(5) Unemployment insurance payments;

(6) Veteran's benefits;

(7) Interest received from any source, whether or not exempt from income tax;

(8) Gifts and inheritances in excess of three hundred dollars ($300), other than transfers between members of the household. Gifts and inheritances includes noncash items;

(9) Amounts contributed on behalf of the contributor to a tax-sheltered retirement plan or deferred compensation plan;

(10) Temporary worker's compensation payments;

(11) Sick leave payments;

(12) Nontaxable military compensation as defined in Section 17138 or 17139, or Section 112 of the Internal Revenue Code;

(13) Nontaxable scholarship and fellowship grants as defined in Section 117 of the Internal Revenue Code;

(14) Nontaxable gain from the sale of a residence as defined in Section 121 of the Internal Revenue Code;

(15) Life insurance proceeds to the extent that such proceeds exceed the expenses incurred for the last illness and funeral of the deceased spouse of the claimant. "Expenses incurred for the last illness" includes unreimbursed expenses paid or incurred during the income calendar year and such expenses paid or incurred thereafter up until the date the claim is filed. For purposes of this paragraph, funeral expenses shall not exceed five thousand dollars ($5,000); and

(16) If an alternative minimum tax is required to be paid pursuant to Chapter 2.1 (commencing with Section 17062) of Part 10 of this division, the amount of alternative minimum taxable income (whether or not cash) in excess of the regular taxable income.

(b) For purposes of this chapter, total income shall be determined for the calendar year (or approved fiscal year ending within such calendar year) which ends within the fiscal year for which assistance

is claimed.

(c) For purposes of Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625) and Chapter 3.5 (commencing with Section 20640) of this part, total income shall be determined for the calendar year ending immediately prior to the commencement of the fiscal year for which postponement is claimed; provided, that for claims filed after January 1, 1978, for the 1977–78 fiscal year, total income may, at the election of the claimant, be determined for the 1977 calendar year. Notwithstanding any other provision of law, for purposes of claimants electing to determine household income for the 1977 calendar year pursuant to this subdivision, the household income shall not exceed twenty thousand dollars ($20,000).

SEC. 185. Section 13009 of the Unemployment Insurance Code is amended to read:

13009. "Wages" means all remuneration, other than fees paid to a public official, for services performed by an employee for his or her employer, including all remuneration paid to a nonresident employee for services performed in this state, and the cash value of all remuneration paid in any medium other than cash, except as provided by this section. "Wages" includes tips received by an employee in the course of his or her employment. The wages shall be deemed to be paid at the time a written statement including tips is furnished to the employer pursuant to Section 13055 or, if no statement including those tips is so furnished, at the time received.

"Wages" shall not include remuneration paid under any of the following conditions:

(a) For agricultural labor, as defined in subdivision (g) of Section 3121 of the Internal Revenue Code.

(b) For domestic service in a private home, local college club, or local chapter of a college fraternity or sorority.

(c) For service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for that service is fifty dollars ($50) or more and the service is performed by an individual who is regularly employed by the employer to perform the service. For purposes of this subdivision, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if either of the following conditions is met:

(1) On each of some 24 days during the quarter, the individual performs for the employer for some portion of the day service not in the course of the employer's trade or business.

(2) The individual was regularly employed, as determined under paragraph (1), by the employer in the performance of the service during the preceding calendar quarter.

(d) For services by a citizen or resident of the United States for a foreign government or an international organization.

(e) For services performed by a nonresident alien individual as designated by regulations prescribed by the department.

(f) For services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by the order.

(g) (1) For services performed by an individual under the age of 18 in delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.

(2) For services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him or her at a fixed price, his or her compensation being based on the retention of the excess of the price over the amount at which the newspapers or magazines are charged to him or her whether or not he or she is guaranteed a minimum amount of compensation for the services, or is entitled to be credited with the unsold newspapers or magazines turned back.

(h) For services not in the course of the employer's trade or business, to the extent paid in any medium other than cash.

(i) To, or on behalf of, an employee or his or her beneficiary under any of the following situations:

(1) From or to a trust which is exempt from tax under Section 17631 of the Revenue and Taxation Code at the time of payment, unless the payment is made to an employee of the trust as remuneration for services rendered as an employee and not as a beneficiary of the trust.

(2) Under or to an annuity plan which, at the time of payment, is a plan qualified pursuant to Chapter 5 (commencing with Section 17501) of Part 10 of Division 2 of the Revenue and Taxation Code.

(3) Under or to a bond purchase plan which, at the time of payment, is a bond purchase plan qualified pursuant to Chapter 5 (commencing with Section 17501) of Part 10 of Division 2 of the Revenue and Taxation Code.

(4) For a payment which qualifies for deduction by an employee pursuant to Section 219 of the Internal Revenue Code if, at the time of payment, it is reasonable to believe that the employee will be entitled to a deduction under that section for payment.

(5) Under a cafeteria plan (within the meaning of Section 125 of the Internal Revenue Code).

(j) To a master, officer, or any other seaman who is a member of a crew on a vessel engaged in foreign, coastwise, intercoastal, interstate, or noncontiguous trade.

(k) Pursuant to any provision of law other than Section 5(c) or 6(*l*) of the Peace Corps Act, for service performed as a volunteer or volunteer leader within the meaning of that act.

(*l*) In the form of group-term life insurance on the life of an employee.

(m) To or on behalf of an employee, and to the extent that, at the time of the payment of remuneration it is reasonable to believe that

a corresponding deduction is allowable for moving expenses pursuant to Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 of Division 2 of the Revenue and Taxation Code.

(n) (1) As tips in any medium other than cash.

(2) As cash tips to an employee in any calendar month in the course of his or her employment by an employer, unless the amount of the cash tips is twenty dollars ($20) or more.

(o) For service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of the boat pursuant to which all of the following apply:

(1) The individual does not receive any cash remuneration, other than as provided in paragraph (2).

(2) The individual receives a share of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of the catch.

(3) The amount of the individual's share depends on the amount of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life.

This subdivision shall apply only where the operating crew of the boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals.

(p) For any medical care reimbursement made to, or for the benefit of, an employee under a self-insured medical reimbursement plan pursuant to Section 105(h)(6) of the Internal Revenue Code.

(q) To, or on behalf of, an employee to the extent not includable in gross income pursuant to Section 13006.

SEC. 186. Section 13050 of the Unemployment Insurance Code is amended to read:

13050. (a) Every employer or person required to deduct and withhold from an employee a tax under Section 986, 3260, or 13020, or who would have been required to deduct and withhold a tax under Section 13020 (determined without regard to Section 13025) if the employee had claimed no more than one withholding exemption, shall furnish to each employee in respect of the remuneration paid by the person to the employee during the calendar year, on or before January 31 of the succeeding year, or, if his or her employment is terminated before the close of the calendar year, on the day on which the last payment of remuneration is made, a written statement showing all of the following:

(1) The name of the person.

(2) The name of the employee, and his or her social security or identifying number if wages have been paid.

(3) The total amount of wages, except that in the case of tips received by an employee in the course of his or her employment, the amounts required shall include only those tips included in statements

furnished to the employer pursuant to Section 13055.

(4) The total amount deducted and withheld as tax under Section 13020.

(5) The total amount of worker contributions paid by the employee pursuant to Section 986.

(6) The total amount of worker contributions paid by the employee pursuant to Section 3260.

(7) The total amount of elective deferrals (within the meaning of Section 402(g)(3) of the Internal Revenue Code) and compensation deferred pursuant to Section 457 of the Internal Revenue Code.

(b) The statement required to be furnished pursuant to this section in respect of any remuneration shall be furnished at other times, shall contain other information, and shall be in a form, as the department may by authorized regulations prescribe.

(c) A duplicate of any statement made pursuant to this section and in accordance with authorized regulations prescribed by the department shall, when required by the regulations, be filed with the department.

(d) If, during any calendar year, any person makes a payment of third-party sick pay to an employee, that person shall, on or before January 15 of the succeeding year, furnish a written statement to the employer in respect of whom the payment was made showing all of the following:

(1) The name and, if there is withholding under this division, the social security number of that employee.

(2) The total amount of the third-party sick pay paid to that employee during the calendar year.

(3) The total amount, if any, deducted and withheld from that sick pay under this division. For purposes of the preceding sentence, the term "third-party sick pay" means any sick pay, as defined in subdivision (b) of Section 13028.6, which does not constitute wages for purposes of this division, determined without regard to subdivision (a) of Section 13028.

(A) The reporting requirements of subdivision (a) with respect to any payments shall, with respect to those payments, be in lieu of the requirements of subdivision (a) and of Section 18802 of the Revenue and Taxation Code.

(B) For purposes of Chapter 6 (commencing with Section 13090), the statements required to be furnished by this subdivision shall be treated as statements required under this section to be furnished to employees.

(C) Every employer who receives a statement under this subdivision with respect to sick pay paid to any employee during any calendar year shall, on or before January 31 of the succeeding year, furnish a written statement to that employee showing all of the following:

(i) The information shown on the statement furnished under this subdivision.

(ii) If any portion of the sick pay is excludable from gross income

pursuant to Article 3 (commencing with Section 17131) of Chapter 3 of Part 10 of Division 2 of the Revenue and Taxation Code, the portion which is not so excludable and the portion which is so excludable. To the extent practicable, the information required under the preceding sentence shall be furnished on or with the statement, if any, required under subdivision (a).

(e) The Franchise Tax Board shall be allowed access to the information filed with the department pursuant to this section.

SEC. 187. Sections 1800 to 1899A, inclusive, of the federal Tax Reform Act of 1986 (Public Law 99-514) enacted numerous technical corrections to 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 99-514 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 99-514.

SEC. 188. This act shall become operative only if Senate Bill 572 of the 1987–88 Regular Session is chaptered.

SEC. 189. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, unless otherwise specifically provided, the provisions of this act shall be applied in the computation of taxes for taxable or income years beginning on or after January 1, 1987.

CHAPTER 1139

An act to add Section 23438 to the Business and Professions Code, and to amend Sections 23041, 23042, 23051.5, 23151, 23153, 23181, 23184, 23603, 23701n, 23701r, 23701s, 24330, 24344, 24344.5, 24345, 24349, 24357, 24416, 24423, 24424, 24439, 24591, 24592, 24593, 24651, 24685, 24916, 24917, 25663d, 25901b, 25934.2, 26131, and 26491 of, to add Sections 17087.5, 17269, 18001.5, 23045.1, 23045.2, 23045.3, 23045.4, 23045.5, 23048, 23049, 23051.7, 23053.5, 23701u, 24272.2, 24343.2, 24379, 24413.2, 24413.3, 24422.3, 24449, 24633.5, 24654, 24673.2, 24682, 24692, 24708, 24726, 24872, 24902.1, 24902.2, 24953, 24953.5, 24966.1, 24966.2, 24967, 25957.3, and 26132.05 to, to amend and repeal Sections 23612, 24331, and 24333, to add Chapter 1.5 (commencing with Section 23081) to Part 11 of, and Article 4.5 (commencing with Section 24990) to Chapter 15 of Part 11 of Division 2 of, to add and repeal Sections 23601.4, 23609.5, 23610.5, 24904, and 25951.5 of, to add Chapter 4.5 (commencing with Section 23800) Part 11 of Division 2 of, to repeal and add Sections 23701m, 23732, 23734, 23735, 24271, 24274, 24307, 24343, 24382, 24413, 24437, 24443, 24457, 24481, 24484, 24495, 24496, 24497, 24502, 24504, 24511, 24512, 24513, 24519, 24520,

24551, 24561, 24585, 24652, 24661, 24667, 24681, 24688, 24689, 24690, 24701, 24725, 24903, 24918, 24981, 24988, 24989, and 25934 of, to repeal, add, and repeal Section 23609 of, to repeal Sections 23604, 23605, 23607, 23710, 23734a, 23734b, 23734c, 23734d, 23735a, 23735b, 23735c, 24272.5, 24342, 24343.5, 24373.5, 24417, 24422.5, 24444, 24445, 24445.5, 24446, 24482, 24483, 24483.5, 24485, 24486, 24487, 24489, 24490, 24491, 24491.1, 24492, 24493, 24503, 24514, 24515, 24516, 24517, 24518, 24653, 24662, 24668, 24669, 24673.5, 24683, 24684, 24686, 24686.2, 24686.4, 24687 and 25935 of, to repeal and add Chapter 2.5 (commencing with Section 23400) of Part 11 of, Article 1 (commencing with Section 24601) of Chapter 12 of Part 11 of, and Chapter 14 (commencing with Section 24831) of Part 11 of, Division 2 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 24, 1987. Filed with Secretary of State September 25, 1987]

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 Bank and Corporation Tax Fairness, Simplification, and Conformity Act of 1987."

SEC. 2. Section 23438 is added to the Business and Professions Code, to read:

23438. (a) Any alcoholic beverage club licensee which restricts membership or the use of its services or facilities on the basis of age, sex, race, religion, color, ancestry, or national origin shall, when issuing a receipt for expenses which may otherwise be used by taxpayers for deduction purposes pursuant to Section 162(a) of the Internal Revenue Code, for purposes of the Personal Income Tax Law, or Section 24343 of the Revenue and Taxation Code, for purposes of the Bank and Corporation Tax Law, incorporate a printed statement on the receipt as follows:

"The expenditures covered by this receipt are nondeductible for state income tax purposes or franchise tax purposes."

(b) For purposes of this section, the following terms have the following meanings:

(1) "Expenses" means expenses, as defined in Section 17269 or 24343.2 of the Revenue and Taxation Code.

(2) "Club" means a club holding an alcoholic beverage license pursuant to the provisions of this division, except a club holding an alcoholic beverage license pursuant to Section 23425.

SEC. 3. Section 17087.5 is added to the Revenue and Taxation Code, to read:

17087.5. In determining his or her gross income, each shareholder of an S corporation shall take into account amounts required to be recognized by the shareholder under Chapter 4.5 (commencing with Section 23800) of Part 11.

SEC. 4. Section 17269 is added to the Revenue and Taxation

Code, to read:

17269. Whereas, the people of the State of California desire to promote and achieve tax equity and fairness among all the state's citizens and further desire to conform to the public policy of nondiscrimination, the Legislature hereby enacts the following for these reasons and for no other purpose:

(a) The provisions of Section 162(a) of the Internal Revenue Code shall not be applicable to expenses incurred by a taxpayer with respect to expenditures made at, or payments made to, a club which restricts membership or the use of its services or facilities on the basis of age, sex, race, religion, color, ancestry, or national origin.

(b) A club described in subdivision (a) holding an alcoholic beverage license pursuant to Division 9 (commencing with Section 23000) of the Business and Professions Code, except a club holding an alcoholic beverage license pursuant to Section 23425 thereof, shall provide on each receipt furnished to a taxpayer a printed statement as follows:

"The expenditures covered by this receipt are nondeductible for state income tax purposes or franchise tax purposes."

(c) For purposes of this section:

(1) "Expenses" means those expenses otherwise deductible under Section 162(a) of the Internal Revenue Code, except for subdivision (a), and includes, but is not limited to, club membership dues and assessments, food and beverage expenses, expenses for services furnished by the club, and reimbursements or salary adjustments to officers or employees for any of the preceding expenses.

(2) "Club" means a club as defined in Division 9 (commencing with Section 23000) of the Business and Professions Code, except a club as defined in Section 23425 thereof.

SEC. 5. Section 18001.5 is added to the Revenue and Taxation Code, to read:

18001.5. (a) A credit against the taxes imposed by this part shall be allowed for taxes paid to another state by a resident shareholder of a corporation electing to be treated as an S corporation in both the other state and in this state under Chapter 4.5 (commencing with Section 23800) of Part 11.

(b) The credit allowed by subdivision (a) shall be subject to all of the conditions and limitations set forth in Section 18001.

SEC. 6. Section 23041 of the Revenue and Taxation Code is amended to read:

23041. "Taxable year" means:

(a) For the purposes of the tax imposed under Chapter 2 (commencing with Section 23101), the calendar year, or the fiscal year for which the tax is payable.

(b) For the purposes of the tax imposed under Chapter 1.5 (commencing with Section 23081), Chapter 3 (commencing with Section 23501), or Chapter 4 (commencing with Section 23701), the calendar year or the fiscal year upon the basis of which the net income is computed.

(c) For purposes of the tax imposed under Chapter 2.5 (commencing with Section 23400), (1) in the case of a taxpayer subject to the tax imposed under Chapter 2 (commencing with Section 23101), the calendar year or the fiscal year for which the tax is payable and (2) in the case of a taxpayer subject to the tax imposed under Chapter 3 (commencing with Section 23501) or Chapter 4 (commencing with Section 23701), the calendar or fiscal year upon the basis of which the net income is computed.

(d) For the purpose of the taxes imposed under this part, a period of 12 months or less.

SEC. 7. Section 23042 of the Revenue and Taxation Code is amended to read:

23042. "Income year" means:

(a) For the purposes of the tax imposed under Chapter 2 (commencing with Section 23101), the calendar year or the fiscal year upon the basis of which the net income is computed. "Income year" means, for the purposes of the tax imposed under Chapter 2 (commencing with Section 23101), in the case of a return made for a fractional part of a year, the period for which such return is made.

(b) For the purposes of the tax imposed under Chapter 1.5 (commencing with Section 23081), Chapter 3 (commencing with Section 23501), or Chapter 4 (commencing with Section 23701), wherever "income year" is used throughout this part, it means "taxable year" as that term is defined in Section 23041 for the purposes of the tax imposed under Chapter 1.5 (commencing with Section 23081), Chapter 3 (commencing with Section 23501), or Chapter 4 (commencing with Section 23701).

(c) For purposes of the tax imposed under Chapter 2.5 (commencing with Section 23400), the same as defined in subdivision (a) with respect to a taxpayer subject to the tax imposed under Chapter 2 (commencing with Section 23101) and the same as defined in subdivision (b) with respect to a taxpayer subject to the tax imposed under Chapter 3 (commencing with Section 23501) or Chapter 4 (commencing with Section 23701).

SEC. 8. Section 23045.1 is added to the Revenue and Taxation Code, to read:

23045.1. For purposes of this part, the term "substituted basis property" has the same meaning given that term by Section 7701(a)(42) of the Internal Revenue Code.

SEC. 9. Section 23045.2 is added to the Revenue and Taxation Code, to read:

23045.2. For purposes of this part, the term "transferred basis property" has the same meaning given that term by Section 7701(a)(43) of the Internal Revenue Code, except that reference to Subtitle A shall instead be a reference to this part.

SEC. 10. Section 23045.3 is added to the Revenue and Taxation Code, to read:

23045.3. For purposes of this part, the term "exchanged basis property" has the same meaning given that term by Section

7701(a)(44) of the Internal Revenue Code, except that reference to Subtitle A shall instead be a reference to this part.

SEC. 11. Section 23045.4 is added to the Revenue and Taxation Code, to read:

23045.4. For purposes of this part, the term "nonrecognition transaction" has the same meaning given that term by Section 7701(a)(45) of the Internal Revenue Code, except that reference to Subtitle A shall instead be a reference to this part.

SEC. 12. Section 23045.5 is added to the Revenue and Taxation Code, to read:

23045.5. For purposes of this part, the term "domestic building and loan association" has the same meaning given that term by Section 7701(a)(19) of the Internal Revenue Code.

SEC. 13. Section 23048 is added to the Revenue and Taxation Code, to read:

23048. Taxable mortgage pools shall be defined and treated in accordance with Section 7701(i) of the Internal Revenue Code, except as otherwise provided.

SEC. 14. Section 23049 is added to the Revenue and Taxation Code, to read:

23049. Section 7701(h) of the Internal Revenue Code, relating to motor vehicle operating leases, shall be applicable for purposes of this part.

SEC. 15. 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," "Internal Revenue Code of 1954," or "Internal Revenue Code of 1986," 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) (1) 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 for income years beginning before January 1, 1987.

(2) The provisions contained in Public Law 99-121, relating to the treatment of debt instruments, shall not be applicable for income years beginning before January 1, 1987.

(3) For income years beginning on and after January 1, 1987, the provisions referred to by paragraphs (1) and (2) shall be applicable for purposes of this part in the same manner and with respect to the same obligations as the federal provisions, except as otherwise provided in this part.

(c) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, the following shall apply:

(1) Due account shall be made for differences in federal and state

terminology, effective dates, substitution of "income year" for "taxable year" where appropriate, substitution of "Franchise Tax Board" for "secretary" when appropriate, and other obvious differences.

(2) 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.

(3) 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.

(4) Any reference to a specific provision of the Internal Revenue Code shall include modifications of that provision, if any, in this part.

(d) In the absence of regulations of the Franchise Tax Board, where provisions of this part conform to the Internal Revenue Code, regulations adopted under the Internal Revenue Code shall govern the interpretation of comparable provisions in this part, with due account for differences in federal and state terminology, effective dates, substitution of "income year" for "taxable year" where appropriate, substitution of "Franchise Tax Board" for "secretary" when appropriate, and other obvious differences.

(e) 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 expressly 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 at the time and in the manner which may be required by the Franchise Tax Board.

(f) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (e) shall be applicable with respect to any such application or consent.

SEC. 16. Section 23051.7 is added to the Revenue and Taxation Code, to read:

23051.7. (a) The enactment of the act adding this section to the code shall not deprive any taxpayer of any carryover of a credit, excess contribution, or loss to which that taxpayer was entitled under this part, including all amendments enacted prior to January 1, 1987.

(b) The carryover of the credit, excess contribution, or loss shall be allowed to be carried forward under the act adding this section to the code for the same period of time as the taxpayer would have been entitled to carry that item forward under prior law.

(c) For purposes of applying the provisions of the act adding this section to the code, the basis or recomputed basis of any asset acquired prior to January 1, 1987, shall be determined under the law

at the time the asset was acquired and any adjustments to basis shall be computed as follows:

(1) Any adjustments to basis for income years beginning prior to January 1, 1987, shall be computed under applicable provisions of this part, including all amendments enacted prior to January 1, 1987; and

(2) Any adjustments to basis for income years beginning on or after January 1, 1987, shall be computed under the applicable provisions of the act adding this section to the code.

(d) Any carryover of a credit which was not allowed to be claimed against the tax on preference income shall not be allowed, for income years beginning on and after January 1, 1988, to be claimed against the alternative minimum tax.

(e) For income years beginning on or after January 1, 1987, and before January 1, 1988, references in this part to "alternative minimum tax" shall be deemed to be references to the "tax on preference income."

SEC. 17. Section 23053.5 is added to the Revenue and Taxation Code, to read:

23053.5. With respect to a corporation electing to be treated as an S corporation under Chapter 4.5 (commencing with Section 23800), any credit carryover from income years beginning prior to January 1, 1987, shall be allowed to be passed through to the shareholders during the first income year beginning on or after January 1, 1987.

SEC. 18. Chapter 1.5 (commencing with Section 23081) is added to Part 11 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 1.5. TAX ON LIMITED PARTNERSHIPS

23081. (a) For taxable years beginning on or after January 1, 1988, every limited partnership doing business in this state (as defined by Section 23101) and required to file a return under Section 17932 shall pay annually to this state a tax for the privilege of doing business in this state in an amount equal to the applicable amount specified in Section 23153 for the current taxable year. The tax imposed under this section shall be due and payable on the date the return is required to be filed under Section 18432.

(b) For purposes of this section, "limited partnership" means any partnership formed by two or more persons under the laws of this state or any other jurisdiction and having one or more general partners and one or more limited partners.

SEC. 19. Section 23151 of the Revenue and Taxation Code is amended to read:

23151. (a) With the exception of financial corporations, every corporation doing business within the limits of this state and not expressly exempted from taxation by the provisions of the Constitution of this state or by this part, shall annually pay to the state, for the privilege of exercising its corporate franchises within this state, a tax according to or measured by its net income, to be computed at the rate of 7.6 percent upon the basis of its net income

for the next preceding income year. In any event, each such corporation shall pay annually to the state, for the said privilege, a minimum tax of one hundred dollars ($100).

(b) For calendar or fiscal years ending after June 30, 1973, the rate of tax shall be 9 percent instead of 7.6 percent as provided by subdivision (a).

(c) For calendar or fiscal years ending in 1980, the rate of tax shall be 9.6 percent.

(d) For calendar or fiscal years ending in 1981 the rate shall be determined as follows:

If the net cash collections under the Bank and Corporation Tax Law for 1979–80, as determined by the Controller, are:

Less than $2,950,000,000, the tax rate shall be 9.6 percent.

If $2,950,000,000 or greater, but less than $3,025,000,000, the tax rate shall be 9.50 percent.

If $3,025,000,000 or greater, but less than $3,100,000,000, the tax rate shall be 9.45 percent.

If $3,100,000,000 or greater, the tax rate shall be 9.40 percent.

(e) For calendar or fiscal years ending in 1982 the rate shall be determined as follows:

If the net cash collections under the Bank and Corporation Tax Law for 1979–80 and 1980–81, as determined by the Controller, are:

Less than $6,000,000,000, the tax rate shall be 9.6 percent.

If $6,000,000,000 or greater, but less than $6,075,000,000, the tax rate shall be 9.50 percent.

If $6,075,000,000 or greater, but less than $6,150,000,000, the tax rate shall be 9.45 percent.

If $6,150,000,000 or greater, but less than $6,225,000,000, the tax rate shall be 9.40 percent.

If $6,225,000,000 or greater, the tax rate shall be 9.35 percent.

(f) For calendar or fiscal years ending in 1983 and thereafter the rate shall be determined as follows:

If the net cash collections under the Bank and Corporation Tax Law for 1979–80, 1980–81, and 1981–82, as determined by the Controller, are:

Less than $9,450,000,000, the tax rate shall be 9.6 percent.

If $9,450,000,000 or greater, but less than $9,525,000,000, the tax rate shall be 9.50 percent.

If $9,525,000,000 or greater, but less than $9,600,000,000, the tax rate shall be 9.45 percent.

If $9,600,000,000 or greater, but less than $9,675,000,000, the tax rate shall be 9.40 percent.

If $9,675,000,000 or greater, but less than $9,750,000,000, the tax rate shall be 9.35 percent.

If $9,750,000,000 or greater, the tax rate shall be 9.30 percent.

(g) For calendar or fiscal years ending in 1987 and thereafter, the tax rate shall be 9.3 percent.

(h) For income years beginning after December 31, 1971, the one hundred dollars ($100) specified in subdivision (a) shall be two hundred dollars ($200) instead of one hundred dollars ($100).

(i) For income years beginning after December 31, 1986, the one hundred dollars ($100) specified in subdivision (a) shall be three hundred dollars ($300) instead of one hundred dollars ($100).

(j) For income years beginning after December 31, 1988, the one hundred dollars ($100) specified in subdivision (a) shall be six hundred dollars ($600) instead of one hundred dollars ($100).

(k) For income years beginning after December 31, 1989, the one hundred dollars ($100) specified in subdivision (a) shall be eight hundred dollars ($800) instead of one hundred dollars ($100).

SEC. 20. Section 23153 of the Revenue and Taxation Code is amended to read:

23153. (a) Every corporation not otherwise taxed under this chapter and not expressly exempted by the provisions of this part or the Constitution of this state shall pay annually to the state a tax of one hundred dollars ($100), except that the following corporations shall pay annually to the state a tax of twenty-five dollars ($25):

(1) A credit union not otherwise taxed under this chapter whose gross income is twenty thousand dollars ($20,000) or less.

(2) A corporation formed under the laws of this state whose principal business when formed was gold mining, which is inactive and has not done business within the limits of the state since 1950.

(3) A corporation formed under the laws of this state whose principal business when formed was quicksilver mining, which is inactive and has not done business within the limits of the state since 1971, or has been inactive for a period of 24 consecutive months or more.

Every such domestic corporation taxable under this section shall be subject to the said tax from the date of incorporation until the effective date of dissolution as provided in Section 23331.

For the purpose of paragraphs (2) and (3) a corporation shall not be considered to have done business if it engages in other than mining.

(b) For income years beginning after December 31, 1971, the one hundred dollars ($100) specified in subdivision (a) shall be two hundred dollars ($200) instead of one hundred dollars ($100).

(c) For income years beginning after December 31, 1986, the one hundred dollars ($100) specified in subdivision (a) shall be three hundred dollars ($300) instead of one hundred dollars ($100).

(d) For income years beginning after December 31, 1988, the one hundred dollars ($100) specified in subdivision (a) shall be six hundred dollars ($600) instead of one hundred dollars ($100).

(e) For income years beginning after December 31, 1989, the one hundred dollars ($100) specified in subdivision (a) shall be eight hundred dollars ($800) instead of one hundred dollars ($100).

SEC. 21. Section 23181 of the Revenue and Taxation Code is amended to read:

23181. (a) Except as otherwise provided herein, an annual tax is hereby imposed upon every bank located within the limits of this state according to or measured by its net income, upon the basis of its net income for the next preceding income year at the rate provided under Section 23186. With respect to the taxation of national banking associations, the state adopts the method numbered (4) authorized by the act of March 25, 1926, amending Section 5219 of the Revised Statutes of the United States, Title 12, Section 548, United States Code.

(b) If a bank commences to do business and ceases doing business in the same taxable year, the tax for such taxable year shall be according to or measured by its net income for such year, at the rate provided under Section 23186.

(c) With respect to a bank, other than a bank described in subdivision (b), which ceases doing business after December 31, 1972, the tax for the taxable year of cessation shall be:

(1) According to or measured by its net income for the next preceding income year, to be computed at the rate prescribed in Section 23186, plus

(2) According to or measured by its net income for the income year during which the bank ceased doing business, to be computed at the rate prescribed in Section 23186.

(d) In the case of a bank which ceased doing business before January 1, 1973, but dissolves or withdraws on such date or thereafter, the tax for the taxable year of dissolution or withdrawal shall be according to or measured by its net income for the income year during which the bank ceased doing business, unless such income has previously been included in the measure of tax for any taxable year, to be computed at the rate prescribed under Section 23186 for the taxable year of dissolution or withdrawal.

(e) Commencing with income years ending in 1980, every bank shall pay to the state a minimum tax of two hundred dollars ($200) or the measured tax imposed on its income, whichever is greater.

(f) For income years beginning after December 31, 1986, every bank shall pay to the state a minimum tax of three hundred dollars ($300) or the measured tax imposed on its income, whichever is greater.

(g) For income years beginning after December 31, 1988, every bank shall pay to the state a minimum tax of six hundred dollars ($600) or the measured tax imposed on its income, whichever is greater.

(h) For income years beginning after December 31, 1989, every bank shall pay to the state a minimum tax of eight hundred dollars ($800) or the measured tax imposed on its income, whichever is greater.

SEC. 22. Section 23184 of the Revenue and Taxation Code is amended to read:

23184. (a) Financial corporations may offset against the franchise tax the amounts paid during the income year to this state or to any county, city, town, or other political subdivisions of the state as personal property taxes, or as license fees or excise taxes for the following privileges:

(1) Operating as personal property brokers or brokers as defined in the Personal Property Brokers Law provided for in Division 9 (commencing with Section 22000) of the Financial Code, or as consumer finance lenders or brokers as defined in the Consumer Finance Lenders Law provided for in Division 10 (commencing with Section 24000) of the Financial Code, or as commercial finance lenders as defined in the Commercial Finance Lenders Law provided for in Division 11 (commencing with Section 26000) of the Financial Code. Fees paid pursuant to Sections 22202, 24202, and 26202 of the Financial Code may not be offset against the franchise tax.

(2) Engaging in the business of loaning money, advancing credit, or loaning credit or arranging for the loan of money or advancing of credit or loaning of credit.

(3) Storing, using or otherwise consuming in this state of tangible personal property by savings and loan associations. This paragraph does not apply to amounts incurred and paid beginning on and after January 1, 1980.

(b) The offset allowed to any financial corporation for any income year as provided in this section may, at the election of that financial corporation, be offset, in whole or in part, against its franchise tax for that income year or offset in whole or in part against its franchise tax in one or more of the next four succeeding years of its selection, until such time as the total amount of such offset is so utilized; provided, however, that for such purposes, offsets elected to be utilized against the franchise tax of a succeeding year shall be applied in the order of their respective years of origin and prior to the application of the offset which might otherwise be allowable for amounts paid during that income year.

(c) Notwithstanding anything to the contrary contained in this section, the tax on financial corporations after the allowance of all offsets provided for herein shall not be less than 7.6 percent of its net income for the preceding income year nor less than the following minimum tax:

(1) In the case of financial corporations, other than credit unions whose gross income is twenty thousand dollars ($20,000) or less, one hundred dollars ($100).

(2) In the case of credit unions whose gross income is twenty thousand dollars ($20,000) or less, twenty-five dollars ($25).

(d) For purposes of this section, with respect to calendar or fiscal years ending after June 30, 1973, the tax on financial corporations after the allowance of all offsets shall not be less than 9 percent of its net income nor less than the minimum tax as provided by subdivision (c).

(e) For income years beginning after December 31, 1971, the one hundred dollars ($100) specified in paragraph (1) of subdivision (c) shall be two hundred dollars ($200) instead of one hundred dollars ($100).

(f) Any offset which a financial corporation was entitled to apply against its franchise tax for the 1980 income year but which could not be applied during such income year because of the limitations otherwise set forth or because such amounts were not paid because they were contested or not timely assessed, shall be applied, in whole or in part, against its franchise tax for the 1981 income year, and any unused offset shall be applied in like manner against its franchise tax for the next six succeeding income years.

(g) Notwithstanding anything to the contrary contained in this section, the tax on financial corporations after the allowance of all offsets provided for herein shall not be less than the tax on net income provided by Section 23151, or the minimum franchise tax, whichever is greater.

(h) For income years beginning after December 31, 1986, the one hundred dollars ($100) specified in paragraph (1) of subdivision (c) shall be three hundred dollars ($300) instead of one hundred dollars ($100).

(i) For income years beginning after December 31, 1988, the one hundred dollars ($100) specified in paragraph (1) of subdivision (c) shall be six hundred dollars ($600) instead of one hundred dollars ($100).

(j) For income years beginning after December 31, 1989, the one hundred dollars ($100) specified in paragraph (1) of subdivision (c) shall be eight hundred dollars ($800) instead of one hundred dollars ($100).

SEC. 23. Chapter 2.5 (commencing with Section 23400) of Part 11 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 24. Chapter 2.5 (commencing with Section 23400) is added to Part 11 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 2.5. ALTERNATIVE MINIMUM TAX

23400. (a) In addition to the other taxes imposed by this part, there is hereby imposed for each taxable year (as defined in Section 23041), a tax equal to the excess, if any, of—

(1) The tentative minimum tax for the taxable year, over

(2) The regular tax for the taxable year.

(b) For purposes of this chapter, each of the following shall apply:

(1) The tentative minimum tax shall be computed in accordance with Sections 55 to 59, inclusive, of the Internal Revenue Code, except as otherwise provided in this part.

(2) The regular tax shall be the amount of tax imposed under Chapter 2 (commencing with Section 23101) or Chapter 3 (commencing with Section 23501), reduced by the sum of the credits allowable under this part.

(3) (A) The provisions of Section 55(b)(1) of the Internal Revenue Code shall be modified to provide that the tentative minimum tax for the taxable year shall be equal to 7 percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount.

(B) For corporations whose net income is determined under Chapter 17 (commencing with Section 25101), alternative minimum taxable income shall be apportioned in the same manner as net income is apportioned for purposes of the regular tax under this part.

(4) The provisions of Section 56(c)(2) of the Internal Revenue Code, relating to Merchant Marine Capital Construction Funds, shall not be applicable.

(5) (A) The provisions of Section 56(g)(4)(A)(iv) of the Internal Revenue Code, relating to property placed in service prior to 1981, shall not be applicable.

(B) The provisions of Section 56(g)(4)(A) of the Internal Revenue Code shall be modified to provide that in the case of any property placed in service prior to January 1, 1987, and not described in clause (i), (ii), or (iii) of Section 56(g)(4)(A) of the Internal Revenue Code, the amount allowable as depreciation or amortization with respect to that property shall be the same amount that would have been allowable for the income year had the taxpayer depreciated the property under the straight-line method for each income year of the useful life (determined without regard to Section 24354.2 or 24381) for which the taxpayer has held the property.

(6) The provisions of Section 57(a)(5) of the Internal Revenue Code, relating to tax-exempt interest, shall be applied by substituting—

(A) The amount of interest income from specified private activity bonds that is exempt from tax under this part, reduced by any deduction (not allowable in computing the regular tax) which would have been allowable if that interest were included in gross income, for

(B) The amount determined under Section 57(a)(5) of the Internal Revenue Code.

(7) The provisions of Section 59(a) of the Internal Revenue Code, relating to the alternative minimum tax foreign tax credit, shall not be applicable.

(8) The provisions of Section 59(b) of the Internal Revenue Code, relating to income eligible for the credit under Section 936 of the Internal Revenue Code, shall not be applicable.

(c) With respect to taxpayers subject to Article 4 (commencing with Section 23221) of Chapter 2, the provisions of Articles 4 (commencing with Section 23221) to 9 (commencing with Section 23361), inclusive, shall apply to the tax imposed by this section except that Section 23221 shall not apply.

(d) For the purposes of computing the alternative minimum tax for taxable years in which a taxpayer commenced doing business, dissolves, withdraws, or ceases doing business, the provisions of

Sections 23151, 23151.1, 23151.2, 23181, 23183, 23183.1, 23183.2, 23201 to 23204, inclusive, 23222 to 23224.5, inclusive, 23282, 23332.5, 23504, and 25401 shall be applied with due regard for the rate and alternative minimum taxable income prescribed by this chapter.

23401. (a) There shall be allowed as a credit against the regular tax (as defined by paragraph (2) of subdivision (b) of Section 23400), for any taxable year, an amount equal to the minimum tax credit for that taxable year.

(b) For purposes of subdivision (a), the minimum tax credit shall be determined in accordance with Section 53 of the Internal Revenue Code, except as otherwise provided in this part.

(c) For purposes of this chapter, references to the "regular tax liability" in Section 53(c)(1) of the Internal Revenue Code shall be modified to refer to the regular tax as defined by paragraph (2) of subdivision (b) of Section 23400.

SEC. 25. Section 23601.4 is added to the Revenue and Taxation Code, to read:

23601.4. (a) For income years beginning on or after January 1, 1987, there shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the alternative minimum tax) an amount equal to 12 percent of the cost of a solar energy system installed on premises, used for commercial purposes, which are located in California and which are owned by the taxpayer during the income year. For purposes of taxpayers who lease a solar energy system pursuant to subdivision (*l*), the tax credit shall apply only to the principal recovery portion of lease payments for the term of the lease not to exceed 10 years, as defined in subdivision (n), which are made during the income year, and to the amounts expended on the purchased portion of the solar energy system, including installation charges, during the income year. For income years beginning on or after January 1, 1988, and before January 1, 1989, the credit percentage allowed by this section shall be reduced to 10 percent.

(b) The solar energy tax credit shall be claimed on the state income tax return for the income year in which the solar energy system was installed.

(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 by the amount prescribed in subdivision (a).

(d) 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 that system.

(e) The basis of any system for which a credit is allowed shall be reduced by the amount of the credit and the amount of any grant provided by a utility or public agency for the solar energy system. The basis adjustment shall be made for the income year for which the

credit is allowed.

(f) In the case of a partnership, the solar energy tax credit may be divided between the partners pursuant to a written partnership agreement.

(g) In the case where the credit allowed under this section exceeds the taxes imposed by this part (except the minimum franchise tax and the alternative minimum tax) for the income 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 alternative minimum tax) in succeeding income years until the credit is used. The credit shall be applied first to the earliest years possible.

(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 income year as energy conservation measures under this part.

(i) Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirement of those 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 income 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 include, but are not limited to, ceiling, wall, and floor insulating above that required by law at the time of original construction. Eligible conservation measures applied in conjunction with solar water heating include, but are not 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.

(j) Taxpayers who lease a solar energy system installed on premises in California shall receive a tax credit as provided in subdivision (a), if the lessee can confirm, if necessary, by a written document signed by the lessor that (1) the lessor irrevocably elects not to claim a state tax credit for the solar energy system, and (2) 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 State Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(k) The State 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 are not 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.

(*l*) For purposes of this section, the following definitions shall apply:

(1) "Installed" means placed in a functionally operative state.

(2) "Cost" includes equipment, installation charges, and 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 the easement. 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, 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, and buildings or portions thereof.

(5) "Commercial purposes" means the installation of solar energy systems on premises other than single-family dwellings.

(6) "Single-family dwelling" means single-family residences, mobilehomes, and the individual units of condominiums.

"Single-family dwelling" does not include cooperatives, apartment buildings, or other similar multiple dwellings, including buildings and any other common areas of a condominium maintained by a homeowners association.

(7) (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.

"Solar energy system" includes, but is not limited to, passive thermal systems, semipassive thermal systems, active thermal systems, and photovoltaic systems.

For purposes of this section, "solar energy system" does not include solar devices for the individual function of wind energy for the production of electricity or mechanical work.

(B) Eligible solar energy systems shall have a useful life of not less than three years.

(8) "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.

(9) "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.

(10) "Active thermal system" means a system which utilizes solar devices thermally isolated from the commercial space to provide for collection, storage, or distribution of solar energy for heating or cooling.

(11) "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.

(12) "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.

(m) The provisions of this section shall not apply to any solar energy system which continues to qualify for the tax credit authorized by former Section 23601 (as amended by Chapter 1200 of the Statutes of 1986) by meeting the eligibility requirements of subdivision (j) of that section.

(n) 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 the date. However, any unused credit may be used beyond that date in accordance with subdivision (g).

SEC. 26. Section 23603 of the Revenue and Taxation Code is amended to read:

23603. (a) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the alternative minimum tax) an amount equal to 55 percent of the cost (including installation charges but excluding interest charges), of a device designed and installed to convert a car or truck, which is registered in this state, to the use of an alcohol fuel consisting of at

least 85 percent methanol or ethanol. The credit allowed by this section shall be claimed in the income year the device is installed and shall not exceed one thousand dollars ($1,000) per vehicle.

(b) For purposes of this section, "device" is any apparatus for installation on a used motor vehicle or truck that requires modification of the engine or pollution control device, or both, so that methanol or ethanol may be used as fuel for the motor vehicle or truck.

(c) The Department of Motor Vehicles shall, upon request, cooperate with the Franchise Tax Board in determining vehicle eligibility under this section.

(d) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of a device described in this section, then to the extent such credit is allowed or allowable, the state credit provided in subdivision (a) shall be reduced by the amount of the federal credit.

(e) That portion of credit under this section which exceeds the taxes imposed by this part (except the minimum franchise tax and the alternative minimum tax) for the income year may not be carried over and applied to those taxes in succeeding income years.

(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 chaptered before January 1, 1991, deletes or extends that date.

SEC. 27. Section 23604 of the Revenue and Taxation Code is repealed.

SEC. 28. Section 23605 of the Revenue and Taxation Code is repealed.

SEC. 29. Section 23607 of the Revenue and Taxation Code is repealed.

SEC. 30. Section 23609 of the Revenue and Taxation Code is repealed.

SEC. 31. Section 23609 is added to the Revenue and Taxation Code, to read:

23609. There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the alternative minimum tax) an amount determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) The applicable percentage shall be 8 percent of the excess of the qualified research expenses for the income year over the base period research expenses and 12 percent of the basic research payments.

(b) "Qualified research" and "basic research" shall include only research conducted in California.

(c) The provisions of Section 41(e)(7)(A) of the Internal Revenue Code, shall be modified so that "basic research," for purposes of this section, includes any basic or applied research including scientific inquiry or original investigation for the advancement of scientific or engineering knowledge or the improved effectiveness of commercial products, except that the

term does not include any of the following:

(1) Basic research conducted outside California.

(2) Basic research in the social sciences, arts, or humanities.

(3) Basic research for the purpose of improving a commercial product if the improvements relate to style, taste, cosmetic, or seasonal design factors.

(4) Any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas).

(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 alternative minimum tax), 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 alternative minimum tax) in succeeding income years. The credit shall be applied first to the earliest income years possible.

(e) (1) This section shall apply only to amounts incurred on or after January 1, 1988, and paid or incurred before January 1, 1993.

(2) In the case of any income year which begins before January 1, 1988, and ends after December 31, 1987, any amount for any base period with respect to that income year shall be the amount which bears the same ratio to that amount for that base period as the number of days in that income year before January 1, 1988, bears to the total number of days in that income year.

(3) In the case of any income year which begins before January 1, 1993, and ends after December 31, 1992, any amount for any base period with respect to that income year shall be the amount which bears the same ratio to that amount for that base period as the number of days in that income year before January 1, 1993, bears to the total number of days in that income year.

(f) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 32. Section 23609.5 is added to the Revenue and Taxation Code, to read:

23609.5. There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the alternative minimum tax) an amount determined in accordance with Section 28 of the Internal Revenue Code, except as follows:

(a) The applicable percentage shall be 15 percent of the qualified clinical testing expenses for the income year.

(b) Qualified clinical testing expenses include only those expenses paid or incurred by the taxpayer for such testing conducted in California.

(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 alternative minimum tax), 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

alternative minimum tax) in succeeding income years. The credit shall be applied first to the earliest income years possible.

(d) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enated statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 33. Section 23610.5 is added to the Revenue and Taxation Code, to read:

23610.5. (a) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the alternative minimum tax) a state low-income housing tax credit is an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code, except as otherwise provided in this section.

(b) (1) The amount of the credit allocated to any project shall be authorized by the Mortgage Bond Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) It shall have been allocated by the Mortgage Bond Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code.

(ii) It shall qualify for a credit under Section 42(h)(4)(B) of the Internal Revenue Code.

(B) The Mortgage Bond Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code.

(2) (A) The Mortgage Bond Allocation Committee shall certify to the taxpayer the amount of tax credit under this section to which the taxpayer is entitled for each year in the credit period.

(B) The taxpayer shall attach a copy of the certification to any return upon which a tax credit is claimed under this section.

(C) In the case of a failure to attach a copy of the certification for the year to the return in which a tax credit is claimed under this section, no credit under this section shall be allowed for that year until a copy of that certification is provided.

(c) Section 42(b) of the Internal Revenue Code shall be modified as follows:

(1) In the case of any qualified low-income building placed in service by the taxpayer during 1987, the term "applicable percentage" means 9 percent for each of the first three years and 3 percent for the fourth year for new buildings (whether or not the building is federally subsidized) and for existing buildings.

(2) In the case of any qualified low-income building placed in service by the taxpayer after 1987 (for new buildings whether or not the building is federally subsidized and for existing buildings), the term "applicable percentage" means either of the following:

(A) For each of the first three years, the highest percentage

prescribed under Section 42(b) (2) of the Internal Revenue Code, for the month in which the building is placed in service, in lieu of the percentage prescribed in Section 42(b) (1) (A) of the Internal Revenue Code.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(d) The term "qualified low-income housing project" as defined in Section 42 (c) (2) of the Internal Revenue Code is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cumulative cash distribution on the taxpayer's cash invested in the qualified low-income housing project in an amount not to exceed 8 percent per annum. For purposes of this paragraph, if the taxpayer is a partnership or an S corporation, the limitation on return shall apply to each of the partners or the shareholders, respectively.

(2) The taxpayer shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g) (1) of the Internal Revenue Code.

(e) The provisions of Section 42(f) of the Internal Revenue Code shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f) (1) of the Internal Revenue Code is modified by substituting "4 income years" for "10 taxable years."

(2) The special rule for the first taxable year of credit period under Section 42(f) (2) of the Internal Revenue Code shall not apply to the tax credit under this section.

(3) Section 42(f) (3) of the Internal Revenue Code is modified to read:

If, as of the close of the 1988 or 1989 taxable year, the qualified basis of any building exceeds the qualified basis of such building as approved for the initial allocation of credits pursuant to this section, the taxpayer shall be eligible to apply for an allocation of the credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) above for the four-year period beginning with the later of the taxable year in which the increase in qualified basis occurs or the taxable year in which the credit allocation is received.

(f) The provisions of Section 42(h) of the Internal Revenue Code shall be modified as follows:

(1) Section 42(h) (2) of the Internal Revenue Code shall not be applicable and instead the following provisions shall be applicable:

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the Mortgage Bond Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (6), and (7) of Section 42(h) of the

Internal Revenue Code shall not be applicable.

(g) (1) Except as provided in paragraph (2), the aggregate housing credit dollar amount which may be allocated annually by the Mortgage Bond Allocation Committee for the 1987, 1988, and 1989 calendar years pursuant to this section and Section 17058 shall be an amount equal to one dollar twenty-five cents ($1.25) multiplied by the state population in that year, as established by the Department of Finance.

(2) The portion of the aggregate housing credit dollar amount of the Mortgage Bond Allocation Committee which is not allocated for each of the calendar years may be carried over to any subsequent calendar years through 1989. Thereafter, Section 42(n)(2) of the Internal Revenue Code shall apply.

(h) (1) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code is modified to mean, with respect to any building, the period of 30 consecutive income years beginning with the first income year of the credit period with respect thereto, subject to the limitation in paragraph (2).

(2) If, after the first 15 years of the compliance period, a qualified low-income housing project is not economically feasible, the taxpayer shall be entitled to remove one or more low-income units from the set-aside and rent requirements of Section 42(g) of the Internal Revenue Code as is necessary for the project to become economically feasible, provided that once a project is again economically feasible, the taxpayer designates the next available units as low-income units subject to the set-aside and rent requirements, up to the original number of low-income units, while keeping the project economically feasible.

(3) For purposes of paragraph (2), "economically feasible" means that project revenue equals or exceeds project operating expenses excluding any return on investment.

(4) For purposes of paragraph (3), "operating expenses" means the reasonable expenses necessary to operate and maintain the project in habitable condition, debt service, taxes, and reasonable reserves. For purposes of this paragraph, debt service shall not include that portion of payments of principal and interest attributable to any excess refinanced principal over the outstanding principal of the loan that was refinanced.

(i) Section 42(j) of the Internal Revenue Code shall not be applicable and the following shall be substituted in its place:

(1) The requirements of this section shall be set forth in a regulatory agreement between the Mortgage Bond Allocation Committee and the taxpayer.

(2) The regulatory agreement shall include, but not be limited to, the following:

(A) A term equal to the compliance period.

(B) A requirement that the agreement be filed in the official records of the county in which the qualified low-income housing project is located.

(C) A provision stating which state and local agencies can enforce the regulatory agreement in the event the taxpayer fails to satisfy any of the requirements of this section.

(D) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto.

(E) A provision incorporating the requirements of Section 42 of the Internal Revenue Code as modified by this section.

(F) A requirement that the taxpayer provide the Mortgage Bond Allocation Committee or its designee and the local agency that can enforce the regulatory agreement with advance notice if the taxpayer intends to reduce the number of low-income units to make a project economically feasible.

(G) A requirement that the taxpayer notify the Mortgage Bond Allocation Committee or its designee and the local agency that can enforce the regulatory agreement if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code.

(H) A requirement that the taxpayer, as security for the performance of taxpayer's obligations under the regulatory agreement, assign the taxpayer's interest in rents which it receives from the project, provided that until there is a default under the regulatory agreement, the taxpayer is entitled to collect and retain the rents.

(I) The remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period, include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operate the project in accordance with the regulatory agreement until the enforcer determines the taxpayer is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance, securing the appointment of a receiver to operate the project, or any other relief as may be appropriate.

(j) In allocating the housing credit, the Mortgage Bond Allocation Committee shall give priority to qualified low-income housing projects that satisfy the following criteria, which are weighted according to the numerical order of the paragraphs listed below:

(1) Projects that have received government financing or mortgage assistance and are eligible and likely to convert to market-rate rental units.

(2) (A) Projects that commit to providing low-income units for a significantly longer period than the compliance period under this section.

(B) Projects that commit to providing a greater percentage of low-income units than is required under Section 42(g) (1) of the Internal Revenue Code.

(3) Projects that commit to charging rent for low-income units

that is less than the rent requirements under Section 42(g) (2) of the Internal Revenue Code.

(4) (A) Projects for which the rate of return on cash investment is less than the rate allowed under this section.

(B) Projects targeted to those groups identified in the California Statewide Housing Plan as having special needs, including projects that ensure that rural areas receive a proportionate share of the housing credits.

(k) Section 42(*l*) of the Internal Revenue Code shall be modified as follows:

The term "Secretary" shall be replaced by the term "Mortgage Bond Allocation Committee."

(*l*) In the case where the state credit allowed under this section exceeds the taxes imposed by this part (except the minimum franchise tax and the alternative minimum tax) for the income 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 alternative minimum tax) 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.

(m) The aggregate amount of tax credits granted pursuant to this section and Section 17058 shall not exceed thirty-five million dollars ($35,000,000) per year. The Mortgage Bond Allocation Committee shall not authorize any credit if the total amount of credits authorized in any year under the Personal Income Tax Law and the Bank and Corporation Tax Law exceeds thirty-five million dollars ($35,000,000).

(n) 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 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, 1990.

SEC. 34. 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 alternative minimum tax) 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 alternative minimum tax) 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 alternative minimum tax) 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 increase the basis of the property as otherwise required by Section 164(a) of the Internal Revenue Code 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.

(h) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 35. Section 23701m of the Revenue and Taxation Code is repealed.

SEC. 36. Section 23701m is added to the Revenue and Taxation Code, to read:

23701m. Section 851 to 855, inclusive, of the Internal Revenue Code, relating to regulated investment companies, shall be applicable for purposes of this chapter, except Section 852(b)(1) of the Internal Revenue Code shall not apply.

SEC. 37. Section 23701n of the Revenue and Taxation Code is amended to read:

23701n. (a) A trust or trusts forming part of a plan providing for the payment of supplemental unemployment compensation benefits, if—

(1) Under the plan, it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees under the plan, for any part of the corpus or income to be (within the income year or thereafter) used for, or diverted to, any purpose other than the providing of supplemental unemployment compensation benefits,

(2) Such benefits are payable to employees under a classification which is set forth in the plan and which is found by the Franchise Tax Board not to be discriminatory in favor of employees who are highly compensated employees within the meaning of Section 414(q) of the Internal Revenue Code, and

(3) Such benefits do not discriminate in favor of employees who are highly compensated employees within the meaning of Section 414(q) of the Internal Revenue Code. A plan shall not be considered discriminatory within the meaning of this clause merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan.

(b) In determining whether a plan meets the requirements of subdivision (a), any benefits provided under any other plan shall not be taken into consideration, except that a plan shall not be considered discriminatory—

(1) Merely because the benefits under the plan which are first determined in a nondiscriminatory manner within the meaning of subdivision (a) are then reduced by any sick, accident, or unemployment compensation benefits received under state or federal law (or reduced by a portion of such benefits if determined in a nondiscriminatory manner), or

(2) Merely because the plan provides only for employees who are not eligible to receive sick, accident, or unemployment compensation benefits under state or federal law the same benefits (or a portion of such benefits if determined in a nondiscriminatory manner) which such employees would receive under such laws if such employees were eligible for such benefits, or

(3) Merely because the plan provides only for employees who are not eligible under another plan (which meets the requirements of subdivision (a)) of supplemental unemployment compensation benefits provided wholly by the employer the same benefits (or a portion of such benefits if determined in a nondiscriminatory manner) which such employees would receive under such other plan if such employees were eligible under such other plan, but only

if the employees were eligible under both plans would make a classification which would be nondiscriminatory within the meaning of subdivision (a).

(c) A plan shall be considered to meet the requirements of subdivision (a) during the whole of any year of the plan if on one day in each quarter it satisfies such requirements.

(d) The term "supplemental unemployment compensation benefits" means only—

(1) Benefits which are paid to an employee because of his or her involuntary separation from the employment of the employer (whether or not such separation is temporary) resulting directly from a reduction in force, the discontinuance of a plant or operation, or other similar conditions, and

(2) Sick and accident benefits subordinate to the benefits described in paragraph (1).

(e) Exemption shall not be denied under this article to any organization entitled to such exemption as an association described in Section 23701i merely because such organization provides for the payment of supplemental unemployment benefits (as defined in paragraph (1) of subdivision (d)).

SEC. 38. Section 23701r of the Revenue and Taxation Code is amended to read:

23701r. (a) A political organization. However, a political organization shall be subject to tax under this part with respect to its "political organization taxable income" and such income shall be subject to tax as provided by Chapter 3 (commencing with Section 23501).

(b) For purposes of this section, the political organization taxable income of any organization for any taxable year is an amount equal to the excess over one hundred dollars ($100) (if any) of—

(1) The gross income for the taxable year (excluding any exempt function income), over

(2) The deductions allowed by this part which are directly connected with the production of the gross income (excluding exempt function income).

(c) For purposes of this section, the term "exempt function income" means any amount received as—

(1) A contribution of money or other property,

(2) Membership dues, a membership fee or assessment from a member of the political organization, or

(3) Proceeds from a political fundraising or entertainment event, or proceeds from the sale of political campaign materials, which are not received in the ordinary course of any trade or business,

to the extent such amount is segregated for use only for the exempt function of the political organization.

(d) For purposes of this part, if any political organization—

(1) Contributes any amount to or for the use of any political organization which is treated as exempt from tax under

subdivision (a) of this section,

(2) Contributes any amount to or for the use of any organization described in paragraph (1) or (2) of Section 509(a) of the Internal Revenue Code of 1954, which is exempt from tax under Section 23701, or

(3) Deposits any amount in the General Fund or the Treasury of the United States or in the General Fund of any state or local government,

such amount shall be treated as an amount not diverted for the personal use of the candidate or any other person. No deduction shall be allowed under this part for the contribution or deposit of any amount described in the preceding sentence.

(e) For purposes of this section—

(1) The term "political organization" means a party, committee, association, fund, (including the trust of an individual candidate) or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function.

(2) The term "exempt function" means the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any federal, state, or local public office or office in a political organization, or the election of Presidential or Vice Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed.

(3) The term "contributions" has the meaning given to such term by paragraph (2) of subdivision (b) of Section 24434.

(4) The term "expenditures" has the meaning given to such term by paragraph (3) of subdivision (b) of Section 24434.

(f) For purposes of paragraph (1) of subdivision (e), a separate segregated fund (within the meaning of Section 610 of Title 18 of the United States Code or of any similar state statute, or within the meaning of any state statute which permits the segregation of dues money for exempt functions, within the meaning of paragraph (2) of subdivision (e)) which is maintained by an organization described in Sections 23701a through 23701p or Section 23701s which is exempt from tax under Section 23701 shall be treated as a separate organization.

(g) (1) For purposes of this section, a fund established and maintained by an individual who holds, has been elected to, or is a candidate (within the meaning of paragraph (3)) for nomination or election to, any federal, state, or local elective public office for use by such individual exclusively for the preparation and circulation of such individual's newsletter shall, except as provided in paragraph (2), be treated as if such fund constituted a political organization.

(2) In the case of any fund described in paragraph (1) the exempt function shall be only the preparation and circulation of the newsletter.

(3) For purposes of paragraph (1), "candidate" means with

respect to any federal, state, or local elective public office, an individual who does both of the following:

(A) Publicly announces that he or she is a candidate for nomination or election to that office.

(B) Meets the qualifications prescribed by law to hold that office.

(h) The requirements set forth in subdivisions (a), (b) and (c) of Section 23701 shall not apply to a political organization or newsletter fund described in this section. However, in the case of a corporation incorporated or organized in this state or qualified to do business in this state, such corporation shall either pay the minimum tax provided in Section 23153 or obtain a certificate of exemption from the Franchise Tax Board before the corporation files with the Secretary of State its articles of incorporation or a duly certified copy thereof.

(i) The requirements set forth in Section 23772 or Section 23774 shall not apply to a political organization or newsletter fund. Further, the requirements set forth in Sections 18405, 18405.1 and 25401 shall not apply to a political organization or newsletter fund described in this section, except that if it has political organization taxable income for any taxable year, the political organization shall be required to file income tax returns or statements as determined by the Franchise Tax Board under Chapter 3 (commencing with Section 23501).

SEC. 39. Section 23701s of the Revenue and Taxation Code is amended to read:

23701s. A trust or trusts created before June 25, 1959, forming part of a plan providing for the payment of benefits under a pension plan funded only by contributions of employees, if—

(1) Under the plan, it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees under the plan, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of benefits under the plan,

(2) Those benefits are payable to employees under a classification which is set forth in the plan and which is found by the Franchise Tax Board not to be discriminatory in favor of employees who are highly compensated employees within the meaning of Section 414(q) of the Internal Revenue Code, and

(3) Those benefits do not discriminate in favor of employees who are highly compensated employees within the meaning of Section 414(q) of the Internal Revenue Code. A plan shall not be considered discriminatory within the meaning of this paragraph merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan, and

(4) In the case of a plan under which an employee may designate certain contributions as deductible-

(A) Those contributions do not exceed the amount with respect to which a deduction is allowable under Section 219(b)(3) of the Internal Revenue Code,

(B) Requirements similar to the requirements of Section 401 (k) (3) (A) (ii) of the Internal Revenue Code are met with respect to those elective contributions, and

(C) Those contributions are treated as elective deferrals for purposes of Section 402 (g) (other than paragraph (4) thereof) of the Internal Revenue Code.

SEC. 40. Section 23701u is added to the Revenue and Taxation Code, to read:

23701u. A corporation or trust described in Section 501 (c) (25) of the Internal Revenue Code, relating to certain title-holding companies.

SEC. 41. Section 23710 of the Revenue and Taxation Code is repealed.

SEC. 42. Section 23732 of the Revenue and Taxation Code is repealed.

SEC. 43. Section 23732 is added to the Revenue and Taxation Code, to read:

23732. The provisions of Section 512 of the Internal Revenue Code, relating to unrelated business taxable income, shall be applicable, except as otherwise provided.

SEC. 44. Section 23734 of the Revenue and Taxation Code is repealed.

SEC. 45. Section 23734 is added to the Revenue and Taxation Code, to read:

23734. The provisions of Section 513 of the Internal Revenue Code, relating to unrelated trade or business, shall be applicable, except as otherwise provided.

SEC. 46. Section 23734a of the Revenue and Taxation Code is repealed.

SEC. 47. Section 23734b of the Revenue and Taxation Code is repealed.

SEC. 48. Section 23734c of the Revenue and Taxation Code is repealed.

SEC. 49. Section 23734d of the Revenue and Taxation Code is repealed.

SEC. 50. Section 23735 of the Revenue and Taxation Code is repealed.

SEC. 51. Section 23735 is added to the Revenue and Taxation Code, to read:

23735. The provisions of Section 514 of the Internal Revenue Code, relating to unrelated debt-financed income, shall be applicable, except as otherwise provided.

SEC. 52. Section 23735a of the Revenue and Taxation Code is repealed.

SEC. 53. Section 23735b of the Revenue and Taxation Code is repealed.

SEC. 54. Section 23735c of the Revenue and Taxation Code is repealed.

SEC. 55. Chapter 4.5 (commencing with Section 23800) is added

to Part 11 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 4.5. TAX TREATMENT OF S CORPORATIONS AND THEIR SHAREHOLDERS

23800. For any income year beginning on or after January 1, 1987, the tax treatment of "S corporations" and their shareholders shall be determined in accordance with Subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code, except as otherwise provided in this chapter.

23801. (a) A corporation may not elect to be treated as an "S corporation" unless it has in effect for federal purposes a valid election under Section 1362(a) of the Internal Revenue Code for the same year.

(b) If a corporation elects to be treated as an "S corporation" and has one or more shareholders who are nonresidents of this state or is a trust with a nonresident fiduciary, each of the following shall be required:

(1) Each nonresident shareholder or fiduciary shall file with the return a statement of consent by that shareholder or fiduciary to be subject to the jurisdiction of the State of California to tax the shareholder's pro rata share of the income attributable to California sources.

(2) The S corporation shall file a statement with its return and make payment of estimated tax on behalf of each nonresident shareholder or fiduciary in an amount equal to the maximum tax rate imposed under subdivision (a) of Section 17041.

(3) An S corporation shall include in its return for each income year a list of shareholders in the form and in the manner prescribed by the Franchise Tax Board.

(4) Failure to meet the requirements of this subdivision shall be grounds for retroactive revocation of the election pursuant to this chapter.

(c) A corporation may not elect to be treated as an "S corporation" if it is part of a combined report pursuant to Article 1 (commencing with Section 25101) of Chapter 17, unless the ownership of all members of the combined report is identical.

(d) The tax for a "C corporation" for a short year shall be determined in accordance with Chapter 13 (commencing with Section 24631), in lieu of Section 1362(e) (5) of the Internal Revenue Code.

23802. (a) Section 1363(a) of the Internal Revenue Code, relating to the taxability of an S corporation, shall not be applicable.

(b) Corporations qualifying under this chapter shall continue to be subject to the taxes imposed under Chapter 2 (commencing with Section 23101), Chapter 2.5 (commencing with Section 23400), and Chapter 3 (commencing with Section 23501), except as follows:

(1) The tax imposed under Section 23151 or 23501 shall be imposed at a rate of 2½ percent rather than the rate specified in

those sections.

(2) The tax imposed under Section 23400 shall be imposed at a rate of ½ percent for income years beginning on or after January 1, 1987, and before January 1, 1988, and 2 percent thereafter rather than the rate specified in that section.

(c) An "S corporation" shall be subject to the minimum tax imposed under Section 23151 or 23153.

23803. (a) Section 1366(a) of the Internal Revenue Code shall be modified to provide that the shareholder's pro rata share of the corporation's credits shall include the credit for political contributions allowed under Section 17053.14.

(b) Section 1366(g) of the Internal Revenue Code shall not be applicable.

23804. Section 1367(b) (3) of the Internal Revenue Code shall be modified to refer to subdivision (d) of Section 24347, in addition to Sections 165(g) and 166(d) of the Internal Revenue Code.

23805. Section 1368(a) of the Internal Revenue Code shall be modified to refer to Section 24453, in lieu of Section 301(c) of the Internal Revenue Code.

23806. Section 1371(d) of the Internal Revenue Code shall not be applicable.

23807. Section 1372 of the Internal Revenue Code shall be modified so that references to partnership treatment shall be to Internal Revenue Code partnership provisions, as modified by Part 10 (commencing with Section 17001).

23808. Sections 1373, 1375, and 1379 of the Internal Revenue Code shall not be applicable.

23809. Section 1374(b) (1) of the Internal Revenue Code, relating to the amount of tax imposed on certain built-in gains, shall be modified to apply the tax rate specified in Section 23151 or 23501, in lieu of the rate of tax specified in Section 11(b) of the Internal Revenue Code.

23810. (a) A corporation which has in effect a valid federal election to be treated as an S corporation for the first income year beginning on or after January 1, 1987, shall be deemed to have elected to be treated as an S corporation for purposes of this part, unless that corporation elects on its return for the first income year beginning on or after January 1, 1987, not to be treated as an S corporation.

(b) In the case of a corporation electing to be treated as an S corporation for the first income year beginning on or after January 1, 1987, the date of its election, when applying provisions of the Internal Revenue Code for purposes of this part, shall be deemed to be the same date as the date of its election for federal purposes under Section 1362(a) of the Internal Revenue Code.

SEC. 56. Section 24271 of the Revenue and Taxation Code is repealed.

SEC. 57. Section 24271 is added to the Revenue and Taxation Code, to read:

24271. Gross income shall be determined in accordance with Section 61 of the Internal Revenue Code, except as otherwise provided.

SEC. 58. Section 24272.2 is added to the Revenue and Taxation Code, to read:

24272.2. The provisions of Section 72(u) of the Internal Revenue Code, relating to the treatment of annuity contracts not held by natural persons, shall be applicable.

SEC. 59. Section 24272.5 of the Revenue and Taxation Code is repealed.

SEC. 60. Section 24274 of the Revenue and Taxation Code is repealed.

SEC. 61. Section 24274 is added to the Revenue and Taxation Code, to read:

24274. The provisions of Section 81 of the Internal Revenue Code, relating to increases in vacation pay suspense account, shall be applicable.

SEC. 62. Section 24307 of the Revenue and Taxation Code is repealed.

SEC. 63. Section 24307 is added to the Revenue and Taxation Code, to read:

24307. (a) The provisions of Section 108 of the Internal Revenue Code, relating to income from discharge of indebtedness, shall be applicable except as otherwise provided.

(b) Section 108(b)(2)(B) and (E) of the Internal Revenue Code, relating to tax attributes for the general business credit and foreign tax credit carryovers, shall not apply.

SEC. 64. Section 24330 of the Revenue and Taxation Code is amended to read:

24330. (a) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the alternative minimum tax) an amount equal to 10 percent of the amount of wages paid to each employee who is certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

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:

(1) Who is a dependent, as described in paragraphs (1) to (8), inclusive, of Section 152(a) of the Internal Revenue Code, of an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the taxpayer (determined with the application of Section 267(c) of the Internal Revenue Code); or

(2) Who is a dependent (as described in paragraph (9) of Section 152(a) of the Internal Revenue Code) 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 the employee begins working for the taxpayer.

(h) (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.

(i) (1) 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.

(j) The term "wages" shall not include any amounts paid or incurred to an individual who begins work for an employer after December 31, 1989.

SEC. 65. 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 alternative minimum tax) 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. "Qualified wages" means that portion of hourly 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 is any of the following:

(i) An individual who has been determined eligible by the administrative entity of a service delivery area for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.) and who is receiving subsidized employment, training, or services funded by the federal Job Training Partnership Act, except for an individual who only receives outreach, intake, or assessment services or a combination thereof.

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 provided for pursuant to

Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) Any voluntary or mandatory registrant for the Work Incentive Demonstration Program provided for pursuant to Section 11347 of the Welfare and Institutions Code.

(iv) Any voluntary or mandatory registrant for the Employment Preparation Program provided for pursuant to Article 3.5 (commencing with Section 11325) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(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 subdivision, "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 the 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 alternative minimum tax) 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 alternative minimum tax) 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.

(*l*) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 66. 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 alternative minimum tax) 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, except that the percentage requirements with respect to employment of residents of a high-density unemployment area shall be applicable only to those employees hired within the 12 months immediately preceding the date that the business seeks certification from the Department of Commerce and not to the entire workforce of the business. A business shall be a qualified business only for the purposes of this section, provided that the Department of Commerce certifies that the business meets the standards set forth in this paragraph.

(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. For the purposes of this section, participation by a prospective employee in a state or federally funded job training or work demonstration program shall not constitute employment, or effect the eligibility of an otherwise qualified employee. Qualified employee includes an otherwise qualified employee who is employed by a qualified business in the 90 days prior to its certification by the Department of Commerce as a qualified business for the purpose of becoming eligible for that

certification.

(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 hourly 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 alternative minimum tax) 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 alternative minimum tax) 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.

(i) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 67. Section 24342 of the Revenue and Taxation Code is repealed.

SEC. 68. Section 24343 of the Revenue and Taxation Code is repealed.

SEC. 70. Section 24343 is added to the Revenue and Taxation Code, to read:

24343. A deduction shall be allowed for trade or business expenses and the amount shall be determined in accordance with Section 162 of the Internal Revenue Code, except that Section 162(g) of the Internal Revenue Code, relating to treble damage payments under the antitrust laws, shall not apply with respect to any conviction or plea before January 1, 1971, or to any conviction or plea on or after that date in a new trial following an appeal of a conviction before that date.

SEC. 71. Section 24343.2 is added to the Revenue and Taxation Code, to read:

24343.2. Whereas, the people of the State of California desire to promote and achieve tax equity and fairness among all the state's citizens and further desire to conform to the public policy of nondiscrimination, the Legislature hereby enacts the following for these reasons and for no other purpose:

(a) No deduction shall be allowed under Section 24343 for expenses incurred by a taxpayer with respect to expenditures made at, or payments made to, a club which restricts membership or the use of its services or facilities on the basis of age, sex, race, religion, color, ancestry, or national origin.

(b) A club described in subdivision (a) holding an alcoholic beverage license pursuant to Division 9 (commencing with Section 23000) of the Business and Professions Code, except a club holding an alcoholic beverage license pursuant to Section 23425 thereof, shall

provide on each receipt furnished to a taxpayer a printed statement as follows:

"The expenditures covered by this receipt are nondeductible for state income tax purposes or franchise tax purposes."

(c) For purposes of this section:

(1) "Expenses" means those expenses otherwise deductible under Section 24343, except for subdivision (a), and includes, but is not limited to, club membership dues and assessments, food and beverage expenses, expenses for services furnished by the club, and reimbursements or salary adjustments to officers or employees for any of the preceding expenses.

(2) "Club" means a club as defined in Division 9 (commencing with Section 23000) of the Business and Professions Code, except a club as defined in Section 23425 thereof.

SEC. 72. Section 24343.5 of the Revenue and Taxation Code is repealed.

SEC. 73. Section 24344 of the Revenue and Taxation Code is amended to read:

24344. (a) Except as otherwise provided, a deduction for interest paid or accrued and the amount allowed shall be determined in accordance with Section 163 of the Internal Revenue Code.

(b) If income of the taxpayer which is derived from or attributable to sources within this state is determined pursuant to Section 25101 or 25110, the interest deductible shall be an amount equal to interest income subject to apportionment by formula, plus the amount, if any, by which the balance of interest expense exceeds interest and dividend income (except dividends deductible under the provisions of Section 24402 and dividends subject to the deductions provided for in Section 24411 to the extent of those deductions) not subject to apportionment by formula. Interest expense not included in the preceding sentence shall be directly offset against interest and dividend income (except dividends deductible under the provisions of Section 24402 and dividends subject to the deductions provided for in Section 24411 to the extent of those deductions) not subject to apportionment by formula.

(c) Notwithstanding subdivision (b), interest expense incurred for purposes of foreign investments may be offset against dividends deductible under Section 24411.

SEC. 74. 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, 1987, 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 December 31, 1984, for income years beginning before January 1, 1987, shall be allowed as a deduction in the income year in which the debt obligation matures or is sold, exchanged, or otherwise disposed.

SEC. 75. Section 24345 of the Revenue and Taxation Code is amended to read:

24345. A deduction shall be allowed for taxes or licenses paid or accrued during the income year, except:

(a) Taxes paid to the state under this part.

(b) Taxes on or according to or measured by income or profits paid or accrued within the income year imposed by the authority of any of the following:

(1) The Government of the United States or any foreign country.

(2) Any state, territory, county, school district, municipality, or other taxing subdivision of any state or territory.

(c) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed, but this does not exclude the allowance as a deduction of so much of the taxes assessed against local benefits as is properly allocable to maintenance or interest charges. Nor does this exclude the allowance of any irrigation or other water district taxes or assessments which are levied for the payment of the principal of any improvement or other bonds for which a general assessment on all lands within the district is levied as distinguished from a special assessment levied on part of the area within the district.

(d) Federal stamp taxes (not described in subdivision (b) or (c)); but this subdivision shall not prevent such taxes from being deducted under Section 24343 (relating to trade or business expenses).

(e) State and local general sales or use taxes. However, there shall be allowed as a deduction, state and local sales or use taxes which are paid or accrued within the income year in carrying on a trade or business or an activity described in Section 212 of the Internal Revenue Code (relating to expenses for production of income). Notwithstanding the preceding sentence, any sales or use tax (except where a tax credit is claimed under Section 23612) which is paid or accrued by the taxpayer in connection with an acquisition or disposition of property shall be treated as part of the cost of the acquired property or, in the case of a disposition, as a reduction in the amount realized on the disposition.

SEC. 76. 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 purposes of this part, the deduction for property leased to governments and other tax-exempt entities shall be limited to the amount determined under Section 168(h) of the Internal Revenue Code.

SEC. 77. Section 24357 of the Revenue and Taxation Code is amended to read:

24357. (a) There shall be allowed as a deduction any charitable contribution (as defined in Section 24359) payment of which is made within the income year. A charitable contribution shall be allowable as a deduction only if verified under regulations prescribed by the Franchise Tax Board.

(b) In the case of a bank or corporation reporting its income on the accrual basis, if—

(1) The board of directors authorizes a charitable contribution during any income year; and

(2) Payment of such contribution is made after the close of such income year and on or before the 15th day of the third month following the close of such income year,

then the bank or corporation may elect to treat such contribution as paid during such income year. The election may be made only at the time of the filing of the return for such income year, and shall be signified in such manner as the Franchise Tax Board shall by regulations prescribe.

(c) For purposes of this section, payment of a charitable contribution which consists of a future interest in tangible personal property shall be treated as made only when all intervening interests in, and rights to the actual possession or enjoyment of, the property have expired or are held by persons other than the taxpayer or those standing in a relationship to the taxpayer described in Section 24428. For purposes of the preceding sentence, a fixture which is intended to be severed from the real property shall be treated as tangible personal property.

(d) No deduction shall be allowed under this section for traveling expenses (including amounts expended for meals and lodging) while away from home, whether paid directly or by reimbursement, unless there is no significant element of personal pleasure, recreation, or vacation in that travel.

SEC. 79. Section 24373.5 of the Revenue and Taxation Code is repealed.

SEC. 80. Section 24379 is added to the Revenue and Taxation Code, to read:

24379. In the case of a transfer of property to which Section 83 of the Internal Revenue Code applies or a cancellation of a restriction described in Section 83(d) of the Internal Revenue Code, there shall be allowed as a deduction under this section, to the corporation or bank for whom were performed the services in connection with which that property was transferred, an amount equal to the amount included under subsection (a), (b), or (d)(2) of Section 83 of the Internal Revenue Code (as incorporated by Section 17081) in the gross income of the person who performed those services. The deduction shall be allowed for the income year of that corporation or bank in which or with which ends the taxable year in which that amount is included in the gross income of the person who performed those services. Where property is substantially vested upon transfer, the deduction shall be allowed to that corporation or bank in accordance with its method of accounting.

SEC. 81. Section 24382 of the Revenue and Taxation Code is repealed.

SEC. 82. Section 24382 is added to the Revenue and Taxation Code, to read:

24382. A deduction shall be allowed for certain expenses of tenant stockholders in a cooperative housing corporation and the amounts allowed shall be determined in accordance with the provisions of Section 216 of the Internal Revenue Code.

SEC. 83. Section 24413 of the Revenue and Taxation Code is repealed.

SEC. 84. Section 24413 is added to the Revenue and Taxation Code, to read:

24413. (a) For purposes of this part, real estate investment trusts shall be treated in accordance with Sections 856 to 858, inclusive, of the Internal Revenue Code, except as otherwise provided.

(b) Section 857(b)(1) of the Internal Revenue Code shall not be applicable.

SEC. 85. Section 24413.2 is added to the Revenue and Taxation Code, to read:

24413.2. Dividends paid by a real estate investment trust after the close of the income year shall be accounted for in accordance with Section 858 of the Internal Revenue Code, except as otherwise provided.

SEC. 86. Section 24413.3 is added to the Revenue and Taxation Code, to read:

24413.3. The annual accounting period of a real estate investment trust shall be adopted in accordance with Section 859 of the Internal Revenue Code, except as otherwise provided.

SEC. 87. Section 24416 of the Revenue and Taxation Code is amended to read:

24416. A net operating loss deduction shall be allowed in computing net income under Section 24341 and shall be determined in accordance with Section 172 of the Internal Revenue Code, except as otherwise provided.

(a) (1) Net operating losses attributable to income years beginning before January 1, 1985, and on or after January 1, 1992, shall not be allowed, except for losses allowed by this section (as amended by Chapter 159 of the Statutes of 1985) and former Section 24417 (as amended by Chapter 158 of the Statutes of 1986).

(2) A net operating loss shall not be carried forward to any income year beginning before January 1, 1987.

(b) The provisions of Section 172(b)(2) of the Internal Revenue Code, relating to the amount of carryovers, shall be modified so that 50 percent of the entire amount of the net operating loss for any income year shall not be eligible for carryover to any subsequent income year.

(c) For any income year in which the taxpayer has in effect a water's edge election under Section 25110, the deduction of a net operating loss carryover shall be denied to the extent that such net operating loss carryover was determined by taking into account the income and factors of an affiliated bank or corporation in a combined report whose income and apportionment factors would not have been taken into account if a water's edge election under Section 25110 had been in effect for the income year in which the loss was incurred.

(d) Net operating loss carrybacks shall not be allowed.

(e) Notwithstanding the provisions of Section 172(b)(1) of the Internal Revenue Code, a net operating loss attributable to an income year beginning on or after January 1, 1985, and before January 1, 1987, shall be a net operating loss carryover for any income year beginning on or after January 1, 1987, and before January 1, 1988, and for each of the two succeeding income years.

(f) For purposes of corporations whose net income is determined under Chapter 17 (commencing with Section 25101)—

(1) The amount of net operating loss incurred in any income year which may be carried forward to another income year, and

(2) The amount of any loss carryforward which may be deducted in any income year,

shall be determined in accordance with the provisions of Section 25108.

(g) The provisions of Section 172(b)(1)(K) of the Internal Revenue Code, relating to bad debt losses of commercial banks, shall not be applicable.

SEC. 88. Section 24417 of the Revenue and Taxation Code is

repealed.

SEC. 89. Section 24422.3 is added to the Revenue and Taxation Code, to read:

24422.3. Capitalization and inclusion in inventory costs of certain expenses shall be determined in accordance with Section 263A of the Internal Revenue Code.

SEC. 90. Section 24422.5 of the Revenue and Taxation Code is repealed.

SEC. 91. Section 24423 of the Revenue and Taxation Code is amended to read:

24423. (a) Notwithstanding Section 24422, regulations shall be prescribed by the Franchise Tax Board under this part corresponding to the regulations which granted the option to deduct as expenses intangible drilling and development costs in the case of oil and gas wells and which were recognized and approved by the Congress in House Concurrent Resolution 50, Seventy-ninth Congress.

(b) The provisions of Section 263(i) of the Internal Revenue Code, relating to special rules for intangible drilling and development costs incurred outside the United States, shall apply to costs paid or incurred after December 31, 1986.

SEC. 92. Section 24424 of the Revenue and Taxation Code is amended to read:

24424. (a) No deduction shall be allowed for—

(1) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy.

(2) Any amount paid or accrued on indebtedness incurred on continued to purchase or carry a single premium life insurance, endowment, or annuity contract. This paragraph shall apply in respect of annuity contracts only as to contracts purchased after December 31, 1954.

(3) Except as provided in subsection (c), any amount paid or accrued on indebtedness incurred or continued to purchase or carry a life insurance, endowment, or annuity contract (other than a single premium contract or a contract treated as a single premium contract) pursuant to a plan of purchase which contemplates the systematic direct or indirect borrowing of part or all of the increases in the cash value of such contract (either from the insurer or otherwise). This paragraph shall apply only in respect of contracts purchased after August 6, 1963.

(4) Any interest paid or accrued on any indebtedness with respect to one or more insurance policies owned by the taxpayer covering the life of any individual who—

(A) Is an officer or employee of, or

(B) Is financially interested in,

any trade or business carried on by the taxpayer to the extent that the aggregate amount of that indebtedness with respect to policies

covering that individual exceeds fifty thousand dollars ($50,000).

This paragraph shall apply with respect to contracts purchased after June 20, 1986.

(b) For purposes of paragraph (2) of subdivision (a), a contract shall be treated as a single premium contract—

(1) If substantially all the premiums on the contract are paid within a period of four years from the date on which the contract is purchased; or

(2) If an amount is deposited after December 31, 1954, with the insurer for payment of a substantial number of future premiums on the contract.

(c) Subsection (a) (3) shall not apply to any amount paid or accrued by a person during an income year on indebtedness incurred or continued as part of a plan referred to in subsection (a) (3).

(1) If no part of four of the annual premiums due during the seven-year period (beginning with the date the first premium on the contract to which such plan relates was paid) is paid under such plan by means of indebtedness.

(2) If the total of the amounts paid or accrued by such person during such income year for which (without regard to this paragraph) no deduction would be allowable by reason of subsection (a) (3) does not exceed one hundred dollars ($100).

(3) If such amount was paid or accrued on indebtedness incurred because of an unforeseen substantial loss of income or unforeseen substantial increase in its financial obligations, or

(4) If such indebtedness was incurred in connection with its trade or business.

For purposes of applying paragraph (1), if there is a substantial increase in the premiums on a contract, a new seven-year period described in such paragraph with respect to such contract shall commence on the date the first such increased premium is paid.

SEC. 93. Section 24437 of the Revenue and Taxation Code is repealed.

SEC. 94. Section 24437 is added to the Revenue and Taxation Code, to read:

24437. Deductions incurred by certain membership organizations in transactions with members shall be limited in accordance with Section 277 of the Internal Revenue Code.

SEC. 95. Section 24439 of the Revenue and Taxation Code is amended to read:

24439. (a) No deduction shall be allowed to the issuing corporation for any premium paid or incurred upon the repurchase of a bond, debenture, note, or certificate or other evidence of indebtedness which is convertible into the stock of the issuing corporation, or a corporation in control of, or controlled by, the issuing corporation, to the extent the repurchase price exceeds an amount equal to the adjusted issue price plus a normal call premium on bonds or other evidences of indebtedness which are not convertible. The preceding sentence shall not apply to the extent

that the corporation can demonstrate to the satisfaction of the Franchise Tax Board that such excess is attributable to the cost of borrowing and is not attributable to the conversion feature.

(b) For purposes of subdivision (a)—

(1) The adjusted issue price is the issue price (as defined in Sections 1273(b) and 1274 of the Internal Revenue Code) increased by any amount of discount deducted before repurchase, or, in the case of bonds or other evidences of indebtedness issued after February 28, 1913, decreased by any amount of premium included in gross income before repurchase by the issuing corporation.

(2) The term "control" has the meaning assigned to such term by Section 24564.

(c) The provisions of this section shall not apply to a convertible bond or other convertible evidence of indebtedness repurchased pursuant to a binding obligation incurred on or before April 22, 1969, to repurchase such bond or other evidence of indebtedness at a specified call premium, but no inference shall be drawn from the fact that this section does not apply to the repurchase of such convertible bond or other convertible evidence of indebtedness.

SEC. 96. Section 24443 of the Revenue and Taxation Code is repealed.

SEC. 97. Section 24443 is added to the Revenue and Taxation Code, to read:

24443. The provisions of Section 274 of the Internal Revenue Code, relating to the disallowance of certain entertainment, gift, travel, etc., expenses, shall apply.

SEC. 98. Section 24444 of the Revenue and Taxation Code is repealed.

SEC. 99. Section 24445 of the Revenue and Taxation Code is repealed.

SEC. 100. Section 24445.5 of the Revenue and Taxation Code is repealed.

SEC. 101. Section 24446 of the Revenue and Taxation Code is repealed.

SEC. 102. Section 24449 is added to the Revenue and Taxation Code, to read:

24449. The provisions of Section 291 of the Internal Revenue Code, relating to special rules relating to corporate preference items, shall be applicable.

SEC. 103. Section 24457 of the Revenue and Taxation Code is repealed.

SEC. 104. Section 24457 is added to the Revenue and Taxation Code, to read:

24457. Section 304 of the Internal Revenue Code, relating to redemption through the use of related corporations, shall be applicable.

SEC. 105. Section 24481 of the Revenue and Taxation Code is repealed.

SEC. 106. Section 24481 is added to the Revenue and Taxation

Code, to read:

24481. Taxability of corporation on distribution shall be determined in accordance with Section 311 of the Internal Revenue Code, except as otherwise provided.

SEC. 107. Section 24482 of the Revenue and Taxation Code is repealed.

SEC. 108. Section 24483 of the Revenue and Taxation Code is repealed.

SEC. 109. Section 24483.5 of the Revenue and Taxation Code is repealed.

SEC. 110. Section 24484 of the Revenue and Taxation Code is repealed.

SEC. 111. Section 24484 is added to the Revenue and Taxation Code, to read:

24484. The effect of corporate distributions on earnings and profits shall be determined in accordance with Section 312 of the Internal Revenue Code, except as otherwise provided.

SEC. 112. Section 24485 of the Revenue and Taxation Code is repealed.

SEC. 113. Section 24486 of the Revenue and Taxation Code is repealed.

SEC. 114. Section 24487 of the Revenue and Taxation Code is repealed.

SEC. 115. Section 24489 of the Revenue and Taxation Code is repealed.

SEC. 116. Section 24490 of the Revenue and Taxation Code is repealed.

SEC. 117. Section 24491 of the Revenue and Taxation Code is repealed.

SEC. 118. Section 24491.1 of the Revenue and Taxation Code is repealed.

SEC. 119. Section 24492 of the Revenue and Taxation Code is repealed.

SEC. 120. Section 24493 of the Revenue and Taxation Code is repealed.

SEC. 121. Section 24495 of the Revenue and Taxation Code is repealed.

SEC. 122. Section 24495 is added to the Revenue and Taxation Code, to read:

24495. Section 316 of the Internal Revenue Code, relating to the definition of dividends, shall apply.

SEC. 123. Section 24496 of the Revenue and Taxation Code is repealed.

SEC. 124. Section 24496 is added to the Revenue and Taxation Code, to read:

24496. Section 317 of the Internal Revenue Code, relating to other definitions, shall apply.

SEC. 125. Section 24497 of the Revenue and Taxation Code is repealed.

SEC. 126. Section 24497 is added to the Revenue and Taxation Code, to read:

24497. The provisions of Section 318 of the Internal Revenue Code, relating to constructive ownership of stock, shall be applicable, except as otherwise provided.

SEC. 127. Section 24502 of the Revenue and Taxation Code is repealed.

SEC. 128. Section 24502 is added to the Revenue and Taxation Code, to read:

24502. The provisions of Section 332 of the Internal Revenue Code, relating to complete liquidations of subsidiaries, shall be applicable, except as otherwise provided.

SEC. 129. Section 24503 of the Revenue and Taxation Code is repealed.

SEC. 130. Section 24504 of the Revenue and Taxation Code is repealed.

SEC. 131. Section 24504 is added to the Revenue and Taxation Code, to read:

24504. The provisions of Section 334 of the Internal Revenue Code, relating to the basis of property received in liquidations, shall be applicable, except as otherwise provided.

SEC. 132. Section 24511 of the Revenue and Taxation Code is repealed.

SEC. 133. Section 24511 is added to the Revenue and Taxation Code, to read:

24511. The provisions of Section 336 of the Internal Revenue Code, relating to gain or loss recognized on property distributed in complete liquidation, shall be applicable, except as otherwise provided.

SEC. 134. Section 24512 of the Revenue and Taxation Code is repealed.

SEC. 135. Section 24512 is added to the Revenue and Taxation Code, to read:

24512. The provisions of Section 337 of the Internal Revenue Code, relating to nonrecognition for property distributed to parent in complete liquidation of subsidiary, shall be applicable, except as otherwise provided.

SEC. 136. Section 24513 of the Revenue and Taxation Code is repealed.

SEC. 137. Section 24513 is added to the Revenue and Taxation Code, to read:

24513. (a) For purposes of Sections 24511 and 24512, the provisions of Section 633 of Public Law 99-514 shall apply, except as otherwise provided.

(b) The provisions of Section 633 (e) of Public Law 99-514, relating to other transition rules, shall not apply.

SEC. 138. Section 24514 of the Revenue and Taxation Code is repealed.

SEC. 139. Section 24515 of the Revenue and Taxation Code is

repealed.

SEC. 140. Section 24516 of the Revenue and Taxation Code is repealed.

SEC. 141. Section 24517 of the Revenue and Taxation Code is repealed.

SEC. 142. Section 24518 of the Revenue and Taxation Code is repealed.

SEC. 143. Section 24519 of the Revenue and Taxation Code is repealed.

SEC. 144. Section 24519 is added to the Revenue and Taxation Code, to read:

24519. The provisions of Section 338 of the Internal Revenue Code, relating to certain stock purchases treated as asset acquisitions, shall be applicable, except as otherwise provided.

SEC. 145. Section 24520 of the Revenue and Taxation Code is repealed.

SEC. 146. Section 24520 is added to the Revenue and Taxation Code, to read:

24520. The provisions of Section 346 of the Internal Revenue Code, relating to definition and special rule, shall be applicable, except as otherwise provided.

SEC. 147. Section 24551 of the Revenue and Taxation Code is repealed.

SEC. 148. Section 24551 is added to the Revenue and Taxation Code, to read:

24551. Section 361 of the Internal Revenue Code, relating to nonrecognition of gain or loss as a transferor corporation and other related matters, shall be applicable.

SEC. 149. Section 24561 of the Revenue and Taxation Code is repealed.

SEC. 150. Section 24561 is added to the Revenue and Taxation Code, to read:

24561. The provisions of Section 367 of the Internal Revenue Code, relating to foreign corporations, shall be applicable to any exchange described in Section 24502, 24521, 24531, 24535, 24536, 24537, 24538, 24539, or 24551, except as otherwise provided.

SEC. 151. Section 24585 of the Revenue and Taxation Code is repealed.

SEC. 152. Section 24585 is added to the Revenue and Taxation Code, to read:

24585. Section 386 of the Internal Revenue Code, relating to transfers of partnership and trust interests by corporations, shall be applicable.

SEC. 153. Section 24591 of the Revenue and Taxation Code is amended to read:

24591. Section 381 of the Internal Revenue Code, relating to carryovers in certain corporate acquisitions, shall apply to the acquisition of assets by another corporation to the extent the corporate attributes enumerated are applicable under this part.

SEC. 154. Section 24592 of the Revenue and Taxation Code is amended to read:

24592. Section 382 of the Internal Revenue Code, relating to special limitation on net operating loss carryforwards and certain built-in losses following ownership change, shall be applicable, except as otherwise provided.

SEC. 155. Section 24593 of the Revenue and Taxation Code is amended to read:

24593. Section 383 of the Internal Revenue Code, relating to special limitations on certain excess credits, etc., shall apply to credits allowable under Chapter 3.5 (commencing with Section 23601), Article 4 (commencing with Section 24330) of Chapter 6, and the minimum tax credit allowable under Section 23401.

SEC. 156. Article 1 (commencing with Section 24601) of Chapter 12 of Part 11 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 157. Article 1 (commencing with Section 24601) is added to Chapter 12 of Part 11 of Division 2 of the Revenue and Taxation Code, to read:

Article 1. Pension, Profit-Sharing, Stock Bonus Plans

24601. The provisions of Sections 404, 404A, 406, 407, 419, and 419A of the Internal Revenue Code shall apply, except as otherwise provided.

24602. The reference to "a consolidated return" in Section 404(a)(3)(B) of the Internal Revenue Code shall be modified to refer to a combined report under Section 25101.

24603. The provisions of Section 404(k) of the Internal Revenue Code, relating to dividends paid deduction, shall not apply.

SEC. 158. Section 24633.5 is added to the Revenue and Taxation Code, to read:

24633.5. (a) In the case of any taxpayer required to change its accounting period by the federal Tax Reform Act of 1986 (Public Law 99-514), that change shall be treated as initiated by the taxpayer with the consent of the Franchise Tax Board.

(b) Any income in excess of expenses for the short income year resulting from the change described in subdivision (a) shall be taken into account ratably in each of the first four income years (including the short year) beginning after December 31, 1986, unless the corporation elects to include all that income in the short income year.

SEC. 159. 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 subdivisions (a) and (b) and Section 24654, 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. 160. Section 24652 of the Revenue and Taxation Code is repealed.

SEC. 161. Section 24652 is added to the Revenue and Taxation Code, to read:

24652. The method of accounting for corporations engaged in farming shall be determined in accordance with Section 447 of the Internal Revenue Code.

SEC. 162. Section 24653 of the Revenue and Taxation Code is repealed.

SEC. 163. Section 24654 is added to the Revenue and Taxation Code, to read:

24654. The use of the cash method of accounting shall be limited in accordance with Section 448 of the Internal Revenue Code.

SEC. 164. Section 24661 of the Revenue and Taxation Code is repealed.

SEC. 165. Section 24661 is added to the Revenue and Taxation Code, to read:

24661. The provisions of Section 451 of the Internal Revenue Code, relating to the general rule for taxable year of inclusion, shall be applicable, except as otherwise provided.

SEC. 166. Section 24662 of the Revenue and Taxation Code is repealed.

SEC. 167. Section 24667 of the Revenue and Taxation Code is repealed.

SEC. 168. Section 24667 is added to the Revenue and Taxation Code, to read:

24667. (a) Installment sales shall be treated in accordance with Sections 453, 453A, 453B, and 453C of the Internal Revenue Code, except as otherwise provided.

(b) For purposes of subdivision (a), any references in the Internal Revenue Code to sections that have not been incorporated into this part by reference shall be deemed to refer to the corresponding section, if any, of this part.

(c) In the case of any taxpayer who made sales under a revolving credit plan and was on the installment method under former Section 24667 or 24668 for the taxpayer's last income year beginning before January 1, 1988, the provisions of this section shall be treated as a change in method of accounting for its first income year beginning after December 31, 1987, and all of the following shall apply:

(1) That change shall be treated as initiated by the taxpayer.

(2) That change shall be treated as having been made with the consent of the Franchise Tax Board.

(3) The period for taking into account adjustments under Article 6 (commencing with Section 24721) by reason of that change shall not exceed four years.

SEC. 169. Section 24668 of the Revenue and Taxation Code is repealed.

SEC. 170. Section 24669 of the Revenue and Taxation Code is repealed.

SEC. 171. Section 24673.2 is added to the Revenue and Taxation Code, to read:

24673.2. (a) Long-term contracts shall be accounted for in accordance with the special rules set forth in Section 460 of the Internal Revenue Code.

(b) This section shall apply to contracts entered into after February 28, 1986.

(c) In the case of a contract entered into after February 28, 1986, during an income year beginning before January 1, 1987, an adjustment to income shall be made upon completion of the contract, if necessary, to insure that all profits from the contract have been included in gross income.

SEC. 172. Section 24673.5 of the Revenue and Taxation Code is repealed.

SEC. 173. Section 24681 of the Revenue and Taxation Code is repealed.

SEC. 174. Section 24681 is added to the Revenue and Taxation Code, to read:

24681. The provisions of Section 461 of the Internal Revenue Code, relating to the general rule for taxable year of deduction, shall be applicable.

SEC. 175. Section 24682 is added to the Revenue and Taxation Code, to read:

24682. Limitations on deductions for certain farming expenses

shall be determined in accordance with Section 464 of the Internal Revenue Code.

SEC. 176. Section 24683 of the Revenue and Taxation Code is repealed.

SEC. 177. Section 24684 of the Revenue and Taxation Code is repealed.

SEC. 178. Section 24685 of the Revenue and Taxation Code is amended to read:

24685. (a) At the election of a taxpayer whose net income is computed under an accrual method of accounting, if the conditions of Section 24343 are otherwise satisfied, the deduction allowable under Section 24343 with respect to vacation pay shall be an amount equal to the sum of—

(1) A reasonable addition to an account representing the taxpayer's liability for vacation pay earned by employees before the close of the income year and paid during the income year or within eight and one-half months following the close of the income year; plus

(2) The amount (if any) of the reduction at the close of the income year in the suspense account provided in paragraph (2) of subdivision (c).

Such liability for vacation pay earned before the close of the income year shall include amounts which, because of contingencies, would not (but for this section) be deductible under Section 24343 as an accrued expense. All payments with respect to vacation pay shall be charged to such account.

(b) The opening balance of the account described in paragraph (1) of subdivision (a) for its first income year shall, under regulations prescribed by the Franchise Tax Board, be—

(1) In the case of a taxpayer who maintained a predecessor account for vacation pay under Section 97 of the Technical Amendments Act of 1958 (Public Law 85-866), as amended, for his last income year ending before January 1, 1976, and who makes an election under this section for his first income year ending after December 31, 1975, the larger of—

(A) The balance in such predecessor account at the close of such last income year, or

(B) The amount determined as if the taxpayer had maintained an account described in paragraph (1) of subdivision (a) for such last income year,

or

(2) In the case of any taxpayer not described in paragraph (1), an amount equal to the largest closing balance the taxpayer would have had for any of the taxpayer's three income years immediately preceding such first income year if the taxpayer had maintained such account throughout such three immediately preceding income years.

(c) (1) the amount of the suspense account at the beginning of the first income year for which the taxpayer maintains under this

section an account (described in paragraph (1) of subdivision (a)) shall be the amount of the opening balance described in subdivision (b) minus the amount, if any, allowed as deductions for prior income years for vacation pay accrued but not paid at the close of the income year preceding such first income year.

(2) At the close of each income year the suspense account shall be—

(A) Reduced by the excess, if any, of the amount in the suspense account at the beginning of the income year over the amount in the account described in paragraph (1) of subdivision (a) at the close of the income year (after making the additions and charges for such income year provided in subdivision (a)), or

(B) Increased (but not to an amount greater than the initial balance of the suspense account) by the excess, if any of the amount in the account described in paragraph (1) of subdivision (a) at the close of the income year (after making the additions and charges for such income year provided in subdivision (a)) over the amount in the suspense account at the beginning of the income year.

(d) An election under this section shall be made at such time and in such manner as the Franchise Tax Board may by regulations prescribe.

(e) (1) The establishment of an account described in paragraph (1) of subdivision (a) shall not be considered a change in method of accounting for purposes of subdivision (e) of Section 24651 (relating to requirement respecting change of accounting method), and no adjustment shall be required under Section 24721 by reason of the establishment of such account.

(2) If the taxpayer treated vacation pay under Section 97 of the Technical Amendments Act of 1958 (P.L. 85-866), as amended, for his last income year ending before January 1, 1975, and if such taxpayer fails to make an election under this section for his first income year ending after December 31, 1975, then, for purposes of Section 24721, such taxpayer shall be treated as having initiated a change in method of accounting with respect to vacation pay for its first income year ending after December 31, 1975.

SEC. 179. Section 24686 of the Revenue and Taxation Code is repealed.

SEC. 180. Section 24686.2 of the Revenue and Taxation Code is repealed.

SEC. 181. Section 24686.4 of the Revenue and Taxation Code is repealed.

SEC. 182. Section 24687 of the Revenue and Taxation Code is repealed.

SEC. 183. Section 24688 of the Revenue and Taxation Code is repealed.

SEC. 184. Section 24688 is added to the Revenue and Taxation Code, to read:

24688. Certain payments for the use of property or services shall be accounted for in accordance with the provisions of Section 467 of

the Internal Revenue Code.

SEC. 185. Section 24689 of the Revenue and Taxation Code is repealed.

SEC. 186. Section 24689 is added to the Revenue and Taxation Code, to read:

24689. Section 468 of the Internal Revenue Code, relating to special rules for mining and solid waste reclamation and closing costs, shall be applicable.

SEC. 187. Section 24690 of the Revenue and Taxation Code is repealed.

SEC. 188. Section 24690 is added to the Revenue and Taxation Code, to read:

24690. (a) The provisions of Section 468A of the Internal Revenue Code, relating to special rules for nuclear decommissioning costs, shall be applicable, except as otherwise provided.

(b) The deduction allowed for the 1987 income year may include contributions to a fund that are required to bring the balance in that fund up to the balance it would have contained if allowable contributions had been made for the 1985 and 1986 income years.

(c) The provisions of Section 468A(e)(2) of the Internal Revenue Code, which impose a tax upon the gross income of the Nuclear Decommissioning Reserve Fund, shall be modified for purposes of this part to provide that a tax shall be imposed upon the gross income of that fund for any taxable year at a rate equal to the rate in effect for that taxable year under Section 23501.

SEC. 189. Section 24692 is added to the Revenue and Taxation Code, to read:

24692. The treatment of passive activity losses and credits shall be determined in accordance with Section 469 of the Internal Revenue Code, except as otherwise provided.

SEC. 190. Section 24701 of the Revenue and Taxation Code is repealed.

SEC. 191. Section 24701 is added to the Revenue and Taxation Code, to read:

24701. The provisions of Section 471 of the Internal Revenue Code, relating to the general rule for inventories, shall be applicable.

SEC. 192. Section 24708 is added to the Revenue and Taxation Code, to read:

24708. Certain small businesses may elect to use the simplified dollar value LIFO method in accordance with the provisions of Section 474 of the Internal Revenue Code.

SEC. 193. Section 24725 of the Revenue and Taxation Code is repealed.

SEC. 194. Section 24725 is added to the Revenue and Taxation Code, to read:

24725. The provisions of Section 482 of the Internal Revenue Code, relating to allocation of income and deductions among taxpayers, shall be applicable, except as otherwise provided.

SEC. 195. Section 24726 is added to the Revenue and Taxation

Code, to read:

24726. For purposes of this part, the tax treatment of interest on certain deferred payments shall be determined in accordance with Section 483 of the Internal Revenue Code.

SEC. 196. Chapter 14 (commencing with Section 24831) of Part 11 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 197. Chapter 14 (commencing with Section 24831) is added to Part 11 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 14. NATURAL RESOURCES

24831. The taxation of natural resources shall be determined in accordance with Subchapter I of Chapter 1 of Subtitle A of the Internal Revenue Code, except as otherwise provided.

24832. The provisions of Sections 613(d), 613(e), and 613A of the Internal Revenue Code, relating to percentage depletion for oil and gas wells and geothermal deposits, shall not be applicable.

24833. The provisions of Section 613 of the Internal Revenue Code, relating to percentage depletion, shall be modified as follows:

(a) In the case of oil, gas, and geothermal wells the allowance for depletion under this part shall be 22 percent of the gross income from the property during the income year, excluding from that gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. That allowance shall not exceed 50 percent of the net income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance under Section 24835 be less than it would be if computed without reference to this section.

(b) Where the total accumulated amount of deduction allowed or allowable for depletion exceeds an amount equal to the adjusted cost of the taxpayer's interest in any property which is subject to recovery through depletion under subdivision (a), percentage depletion shall be allowed in respect to those interests in that property, subject to the limitations and adjustments of subdivisions (c) and (d).

(c) Where the total depletion allowance for all properties in subdivision (b) exceeds one million five hundred thousand dollars ($1,500,000), the allowance in subdivision (b) shall be reduced by 125 percent of the excess.

(d) When either (1) the income from sources within this state of two or more corporations which are commonly owned or controlled is determined in accordance with Chapter 17 (commencing with Section 25101) or Part 18 (commencing with Section 38001), or (2) two or more commonly owned or controlled corporations derive income from sources solely within this state, whose business activities are such that if conducted within and without this state, the income derived from sources within this state would be determined in accordance with Chapter 17 (commencing with Section 25101) or Part 18 (commencing with Section 38001) (hereinafter referred to as "wholly intrastate corporations"), then those corporations shall

determine the percentage depletion prescribed in subdivision (b) as if those corporations were one corporation. As to "wholly intrastate corporations," if subdivision (c) applies, then the amount of percentage depletion (as adjusted and limited by subdivision (c)) shall be prorated among them in the ratio to which the percentage depletion of each prescribed in subdivision (b) (before the application of subdivision (c)) bears to the total percentage depletion prescribed in subdivision (b) for all corporations (before the application of subdivision (c)).

(e) For purposes of this section, a "geothermal deposit" means a geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor (whether or not under pressure).

24834. The provisions of Section 621 of the Internal Revenue Code, relating to payments to encourage exploration, development, and mining for defense purposes, shall not be applicable.

SEC. 198. Section 24872 is added the the Revenue and Taxation Code, to read:

24872. A real estate mortgage investment conduit (REMIC) shall be subject to the minimum tax imposed under Section 23151 or 23153.

SEC. 199. Section 24902.1 is added to the Revenue and Taxation Code, to read:

24902.1. The provisions of Section 1256 of the Internal Revenue Code, relating to contracts marked to market, shall be applicable, except as otherwise provided.

SEC. 200. Section 24902.2 is added to the Revenue and Taxation Code, to read:

24902.2. The provisions of Section 1257 of the Internal Revenue Code, relating to dispositions of converted wetlands or highly erodible croplands, shall be applicable, except as otherwise provided.

SEC. 201. Section 24903 of the Revenue and Taxation Code is repealed.

SEC. 202. Section 24903 is added to the Revenue and Taxation Code, to read:

24903. The character of the gain or loss (capital or ordinary), resulting from the sale or exchange of property, shall be determined in accordance with Parts III and IV of Subchapter P of the Internal Revenue Code, except as otherwise provided in this part.

SEC. 203. Section 24904 is added to the Revenue and Taxation Code, to read:

24904. (a) If for any income year a taxpayer has a net capital gain from the sale or exchange of small business stock, a deduction from gross income shall be allowed as follows:

(1) In the case of small business stock held for more than one year but not more than three years, 35 percent of the net capital gain.

(2) In the case of small business stock held for more than three years, 100 percent of the net capital gain.

(b) This section shall apply only with respect to small business stock acquired after September 16, 1981, and sold or exchanged

before October 1, 1987.

(c) For purposes of this section, "small business stock" is an equity security issued by a corporation which has the following characteristics at the time of acquisition by the taxpayer:

(1) The commercial domicile or primary place of business is located within California.

(2) The total employment of the corporation is no more than 500 employees, as measured by the number of employees covered by federal unemployment insurance on December 31 of the year preceding acquisition of the small business stock, a majority of which employees were covered by California unemployment insurance on December 31 of the year preceding acquisition of the small business stock. However, if more than 50 percent of the outstanding equity securities of all classes are held by another corporation, the employment of the controlling corporation shall be counted as employment of the eligible corporation for purposes of this section.

(3) The outstanding issues of the corporations, including those held by the taxpayer, are not listed on the New York Stock Exchange, the American Stock Exchange, or the National Association of Securities Dealers Automated Quotation System.

(4) No more than 25 percent of gross receipts in the immediate prior income year were obtained from rents, interest, dividends, or sales of assets.

(5) The corporation is not engaged primarily in the business of holding land.

(6) Notwithstanding paragraph (4), "small business stock" includes an equity security issued by a corporation which has derived no more than 25 percent of its gross receipts from rents, dividends, or sales of assets during any of the first four income years following the date of its incorporation.

Paragraph (6) shall not be deemed satisfied by a corporation which issues equity securities if that corporation, for tax purposes only, liquidates its assets, in whole or in part, in anticipation of qualifying under those provisions and then subsequently reorganizes that portion of the corporation under a new name.

(d) For purposes of this section, "small business stock" does not include an equity security issued by a corporation which has either of the following characteristics in the income year immediately prior to the taxpayer's sale or exchange of the equity security:

(1) More than 25 percent of its gross receipts were obtained from rents, interest, dividends, or sales of assets.

(2) The corporation was primarily engaged in the business of holding land.

(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. 204. 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 as follows:

(a) For expenditures, receipts, losses, or other items properly chargeable to capital account, but no such adjustment shall be made for any of the following:

(1) Sales or use tax paid or incurred in connection with the acquisition of property for which a tax credit is claimed pursuant to Section 23612.

(2) Taxes or other carrying charges described in Section 24426, or for expenditures described in Sections 24364 and 24369 for which deductions have been taken in determining net income for the income year or any prior income year.

(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 allowable) 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 subdivisions) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax free or were applicable in reduction of basis (not including distributions made by a corporation, which was classified as a personal service corporation under the provisions of the 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 Section 616(b) of the Internal Revenue Code (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 Section 617(a) of the Internal Revenue Code (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 subdivision (a) of Section 24366 (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 payments made on account of transfers of franchises, trademarks, or trade names under Section 24378.

(i) For amounts allowed as deductions under Sections 24356.2 and 24356.3.

SEC. 205. Section 24917 of the Revenue and Taxation Code is amended to read:

24917. Whenever it appears that the basis of property in the hands of the bank or corporation is a substituted basis, then the adjustments provided in Section 24916 shall be made after first making in respect of such substituted basis proper adjustments of a similar nature in respect of the period during which the property was held by the transferor, donor, or grantor, or during which the other property was held by the person for whom the basis is to be determined. A similar rule shall be applied in the case of a series of substituted bases.

SEC. 206. Section 24918 of the Revenue and Taxation Code is repealed.

SEC. 207. Section 24918 is added to the Revenue and Taxation Code, to read:

24918. The provisions of Section 1017 of the Internal Revenue Code, relating to discharge of indebtedness, shall be applicable except as otherwise provided. References to affiliated groups which file a consolidated return under Section 1501 of the Internal Revenue Code shall be treated as meaning members of the same unitary group which file a combined report under Article 1 (commencing with Section 25101) of Chapter 17.

SEC. 208. Section 24953 is added to the Revenue and Taxation Code, to read:

24953. The provisions of Section 1039 of the Internal Revenue Code, relating to certain sales of low-income housing projects, shall be applicable.

SEC. 209. Section 24953.5 is added to the Revenue and Taxation Code, to read:

24953.5. (a) If a qualified housing project is sold or disposed of by the taxpayer in an approved disposition, then, at the election of the taxpayer, gain from that approved disposition shall not be recognized to the extent specified in subdivision (c). An election made under this section shall be made at the time and in the manner as the Franchise Tax Board prescribes by regulations.

(b) For purposes of this section:

(1) "Qualified housing project" means a project providing rental or cooperative housing for lower income families subject to any of the following with respect to which the owner is, under those sections or regulations issued thereunder limited as to the rate of return on his or her investment in the project, and limited as to rentals or occupancy charges for units in the project:

(A) A mortgage insured by the United States Department of Housing and Urban Development under either Section 202, 213, 221(d)(3), 231, 236, or 608 of the National Housing Act.

(B) A mortgage securing a direct loan from the Farmers Home Administration of the United States Department of Agriculture under either Section 514 or 515 of the Housing Act of 1949.

(C) A Housing Assistance Payments contract under Section 8 of the United States Housing Act of 1937, where that contract provides a project-based subsidy under the New Construction, Moderate Rehabilitation, Substantial Rehabilitation, or Loan Management programs.

(2) "Approved disposition" means a sale or other disposition of a qualified housing project to a qualified entity as defined in this subdivision and subject to specific use restrictions, as defined in this subdivision.

(3) "Qualified entities" include any of the following:

(A) A nonprofit corporation that has obtained tax-exempt status under either Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.

(B) A public agency or unit of state or local government.

(C) A limited-equity cooperative formed pursuant to Section 33007.5 of the Health and Safety Code.

(D) A limited partnership, of which a general partner is one of the above qualified entities, or an affiliate thereof, where a majority of the board of directors of the affiliate is appointed or removable by the qualified entity or where the qualified entity owns a majority of the voting shares of the affiliate, so long as the partnership agreement limits the annual rate of return to investors to 8 percent of their capital contributions.

(4) A qualified entity acquiring a qualified housing project shall agree, for the useful life of the project, to all of the following conditions and restrictions:

(A) To assume the obligations imposed by any loan agreement, mortgage, subsidy contract, or regulatory agreement on the project.

(B) To restrict occupancy in accordance with the threshold requirements of Section 42(g) of the Internal Revenue Code where less than all of the units in the projects are occupied by tenants whose income make the project eligible for the tax credit under Section 42 of the Internal Revenue Code.

(C) To accept all available rent subsidies on behalf of tenants in the project.

(D) Not to evict tenants without a showing of good cause.

(E) Not to arbitrarily discriminate against applicants for admission on the basis of family income or any other basis prohibited by law.

(F) To establish rents for the project not exceeding those required by the terms of any subsidy program utilized at the project or the rent restrictions required by Section 42 of the Internal Revenue Code, whichever is less.

(G) To be subject to continued regulation by federal or state housing agencies or the Department of Housing and Community Development to ensure compliance with these regulatory requirements.

(H) To restrict occupancy in accordance with this paragraph by a deed restriction running with the land and enforceable by the Department of Housing and Community Development. Any regulatory agreement establishing these occupancy restrictions shall be deemed a contract and shall be enforceable by affected tenants as third-party beneficiaries thereto.

(c) (1) Where all units in the project are used in accordance with the standards specified in paragraph (4) of subdivision (b), and all of the units are occupied by tenants whose incomes make the project eligible for the tax credit under Section 42 of the Internal Revenue Code, then 50 percent of the gain, which would otherwise be recognized, shall not be recognizable to any extent.

(2) So long as the threshold requirements of Section 42(g) of the Internal Revenue Code are met, where less than all of the units in the project are occupied by tenants whose incomes make the project eligible for the tax credit under Section 42 of the Internal Revenue Code, then the gain shall not be recognized in accordance with the formulas for allocating the low-income housing tax credit, as provided in Section 42 of the Internal Revenue Code.

(d) Upon the receipt of information that a qualified entity is failing to use the project in accordance with the requirements of paragraph (4) of subdivision (b), then the Department of Housing and Community Development shall conduct an investigation of the allegations. If the department determines that the qualified entity is utilizing good faith efforts to use the units in the project to the

maximum extent possible in accordance with the restrictions specified in paragraph (4) of subdivision (b), and it is not economically feasible to utilize all units in that fashion, then the department shall not seek to remedy the alleged violation. If the department determines that there exists an unjustified violation of the restrictions specified in paragraph (4) of subdivision (b), then the department shall pursue whatever remedies are specified by law for that violation, including the imposition of a receivership to operate the project in accordance with the requirements of this section and recovery of a penalty from the qualified entity in the amount of the capital gains tax that was not recognized and penalties and interest for delinquent taxes as otherwise provided by law.

(e) No project on which 50 percent of the capital gains tax has been nonrecognized pursuant to subdivision (c) shall be sold or otherwise disposed of without the prior written approval of the Department of Housing and Community Development. In giving that approval, the department shall ensure that the project shall continue to be subject to the requirements of paragraph (2) of subdivision (b) or that any net proceeds of the sale are utilized for charitable low-income housing purposes. In determining what constitutes the net proceeds of the sale, where the seller is a qualified limited-partnership entity under subparagraph (D) of paragraph (3) of subdivision (b), the Department of Housing and Community Development shall consider the terms of the partnership agreement.

SEC. 210. Section 24966.1 is added to the Revenue and Taxation Code, to read:

24966.1. The provisions of Section 1059A of the Internal Revenue Code, relating to limitation on taxpayer's basis or inventory cost in property imported from related persons, shall be applicable, except as otherwise provided.

SEC. 211. Section 24966.2 is added to the Revenue and Taxation Code, to read:

24966.2. The provisions of Section 1060 of the Internal Revenue Code, relating to special allocation rules for certain asset acquisitions, shall be applicable, except as otherwise provided.

SEC. 212. Section 24967 is added to the Revenue and Taxation Code, to read:

24967. The value of property imported from another country shall be determined in accordance with Section 1059A of the Internal Revenue Code.

SEC. 213. Section 24981 of the Revenue and Taxation Code is repealed.

SEC. 214. Section 24981 is added to the Revenue and Taxation Code, to read:

24981. Nonrecognition of gain or loss on exchanges or distributions made pursuant to an order of the federal Securities and Exchange Commission shall be determined in accordance with Section 1081 of the Internal Revenue Code.

SEC. 215. Section 24988 of the Revenue and Taxation Code is

repealed.

SEC. 216. Section 24988 is added to the Revenue and Taxation Code, to read:

24988. The basis for determining gain or loss on transactions coming within the provisions of Section 24981 shall be determined in accordance with Section 1082 of the Internal Revenue Code.

SEC. 217. Section 24989 of the Revenue and Taxation Code is repealed.

SEC. 218. Section 24989 is added to the Revenue and Taxation Code, to read:

24989. The basis of player contracts transferred in connection with the sale of a franchise shall be determined in accordance with Section 1056 of the Internal Revenue Code.

SEC. 219. Article 4.5 (commencing with Section 24990) is added to Chapter 15 of Part 11 of Division 2 of the Revenue and Taxation Code, to read:

Article 4.5. Special Rules for Bonds and Other Debt Instruments

24990. The tax treatment of bonds and other debt instruments shall be determined in accordance with Part V of Subchapter P of Chapter 1 of Subtitle A of the Internal Revenue Code, except as otherwise provided in this article.

24991. Section 1275(a)(3) of the Internal Revenue Code (relating to the definition of tax-exempt obligation) shall not be applicable but instead the term "tax-exempt obligation" means obligations the interest of which is exempt from tax under this part.

24992. A copy of the information furnished pursuant to Section 1275(c)(2) of the Internal Revenue Code shall be provided to the Franchise Tax Board by any issuer subject to tax under this part at the time and in the manner required by the Franchise Tax Board.

24993. For purposes of this part, the treatment of loans with below-market interest rates shall be determined in accordance with Section 7872 of the Internal Revenue Code.

24994. Section 1272 of the Internal Revenue Code shall be modified as follows:

(a) For income years beginning on or after January 1, 1987, and before the income year in which the debt obligation matures or is sold, exchanged, or otherwise disposed, the amount included in gross income under this part shall be the same as the amount included in gross income on the federal tax return.

(b) The difference between the amount included in gross income on the federal return and the amount included in gross income under this part, with respect to obligations issued after December 31, 1984, for income years beginning before January 1, 1987, shall be included in gross income in the income year in which the debt obligation matures or is sold, exchanged, or otherwise disposed.

SEC. 220. Section 25663d of the Revenue and Taxation Code is amended to read:

25663d. (a) If any corporation initiates a motion to quash a subpoena, as provided by Sections 7465 through 7476, inclusive, of the Government Code, and that corporation is the corporation with respect to whose liability the subpoena is issued (or is the agent, nominee, or other person acting under the direction or control of that corporation), then the running of any period of limitations under Section 25663 (relating to deficiency assessments) or under Section 25731 (relating to false or fraudulent returns) or Section 25964 (relating to criminal prosecutions) with respect to that corporation shall be suspended for the period during which a proceeding, and appeals therein, with respect to the enforcement of that subpoena is pending.

(b) In the absence of the resolution of a response to a subpoena served to a third-party recordkeeper (as defined in Section 7609(a)(3)(A) of the Internal Revenue Code) issued under Section 26423 (power of examination), the running of any period of limitations under Section 25663 (relating to deficiency assessments) or under Section 25731 (relating to false or fraudulent returns), or Section 25964 (relating to criminal prosecutions) with respect to any corporation whose liability the subpoena was issued (other than a corporation taking action as provided in subdivision (a)) shall be suspended for the period—

(1) Beginning on the date which is six months after the service of that subpoena, and

(2) Ending with the final resolution of that response.

SEC. 221. Section 25901b of the Revenue and Taxation Code is amended to read:

25901b. (a) Interest upon the amount determined as a deficiency shall be assessed, collected, and paid in the same manner as the tax at the adjusted annual rate established pursuant to Section 19269 from the date prescribed for the payment of the tax or, if the tax is paid in installments, from the date prescribed for the payment of the first installment, until the date the tax is paid. If any portion of the deficiency is paid prior to the date it is assessed, interest shall accrue on such portion only to the date paid.

(b) If the Franchise Tax Board makes an erroneous payment to a taxpayer, that amount may be assessed and collected pursuant to Section 25670 (pertaining to mathematical errors). However, interest at the rate prescribed by Section 19269 on those amounts shall not accrue until 30 days from the date the Franchise Tax Board mails written notice demanding repayment.

(c) (1) In the case of any assessment of interest, the Franchise Tax Board may abate the assessment of all or any part of that interest for any period in either of the following circumstances:

(A) Any deficiency attributable in whole or in part to any error or delay by an officer or employee of the Franchise Tax Board (acting in his or her official capacity) in performing a ministerial act.

(B) Any payment of any tax described in Section 25662 to the extent that any delay in that payment is attributable to that officer

or employee being dilatory in performing a ministerial act.

For purposes of this paragraph, an error or delay shall be taken into account only if no significant aspect of that error or delay can be attributed to the taxpayer involved, and after the Franchise Tax Board has contacted the taxpayer in writing with respect to that deficiency or payment.

(2) The Franchise Tax Board shall abate the assessment of all interest on any erroneous refund for which an action for recovery is provided under Section 26281 until the date demand for repayment is made, unless either of the following has occurred:

(A) The taxpayer (or a related party) has in any way caused that erroneous refund.

(B) That erroneous refund exceeds fifty thousand dollars ($50,000).

SEC. 222. Section 25934 of the Revenue and Taxation Code is repealed.

SEC. 223. Section 25934 is added to the Revenue and Taxation Code, to read:

25934. (a) (1) If any part of any underpayment (as defined in subdivision (c)) is due to negligence or disregard of rules or regulations, there shall be added to the tax an amount equal to the sum of the following:

(A) Five percent of the underpayment.

(B) An amount equal to 50 percent of the interest payable under Section 25901 with respect to the portion of that underpayment which is attributable to negligence for the period beginning on the last date prescribed by law for payment of that underpayment (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).

(2) There shall not be taken into account under this subdivision any portion of an underpayment attributable to fraud with respect to which a penalty is imposed under subdivision (b).

(3) For purposes of this subdivision, the term "negligence" includes any failure to make a reasonable attempt to comply with the provisions of this part, and the term "disregard" includes any careless, reckless, or intentional disregard.

(b) (1) If any part of any underpayment (as defined in subdivision (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to the sum of the following:

(A) Seventy-five percent of the portion of the underpayment which is attributable to fraud.

(B) An amount equal to 50 percent of the interest payable under Section 25901 with respect to that portion for the period beginning on the last day prescribed by law for payment of that underpayment (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.

(2) If the Franchise Tax Board establishes that any portion of an underpayment is attributable to fraud, the entire underpayment shall be treated as attributable to fraud, except with respect to any portion of the underpayment which the taxpayer established is not attributable to fraud.

(c) For purposes of this section, "underpayment" means "deficiency" as defined by Section 25662.1 (except that, for this purpose, the tax shown on a return shall be taken into account only if that return was filed on or before the last day prescribed for the filing of that return, determined with regard to any extension of time for that filing).

(d) If any penalty is assessed under subdivision (b) (relating to fraud) for an underpayment of tax which is required to be shown on a return, no penalty under Section 25931 (relating to failure to file that return) or Section 25934.2 (relating to failure to pay tax) shall be assessed with respect to the portion of the underpayment which is attributable to fraud.

(e) If:

(1) A taxpayer fails to make the report required under Section 1092(a)(3)(B) of the Internal Revenue Code in the manner prescribed by that section and that failure is not due to reasonable cause, and

(2) That taxpayer has an underpayment of any tax attributable (in whole or in part) to the denial of a deduction of a loss with respect to any position (within the meaning of Section 1092(d)(2) of the Internal Revenue Code),

then that underpayment shall, for purposes of subdivision (a), be treated as an underpayment due to negligence.

SEC. 224. Section 25934.2 of the Revenue and Taxation Code is amended to read:

25934.2. (a) If any taxpayer fails to pay either of the following:

(1) The amount of tax required to be paid under Sections 25551 and 25553 by the date prescribed therein, or

(2) Any amount in respect of any tax required to be shown on a return which is not so shown (including an assessment made pursuant to Section 25670) within 10 days of the date of the notice and demand therefor,

unless it is shown that such failure is due to reasonable cause and not due to willful neglect, a penalty is hereby imposed consisting of both of the following:

(A) Five percent of the total tax unpaid (as defined in subdivision (c)).

(B) An amount computed at the rate of 0.5 percent per month of the "remaining tax" (as defined in subdivision (d)) for each additional month or fraction thereof during which the "remaining tax" is greater than zero, not to exceed 25 percent in the aggregate.

The penalty imposed by this section shall be due and payable upon notice and demand by the Franchise Tax Board. The tender of a check or money order does not constitute payment of the tax for

purposes of this section unless the check or money order is paid on presentment.

(b) If an underpayment of tax is subject to the imposition of a penalty under subdivision (a) of this section, as well as under Sections 25931 to 25934.4, inclusive, the penalty imposed under subdivision (a) of this section or the aggregate penalties imposed under Sections 25931 to 25934.4, inclusive, shall be assessed, whichever is greater.

(c) For purposes of this section, total tax unpaid means the amount of tax required to be shown on the return reduced by both of the following:

(1) The amount of any part of the tax which was paid on or before the date prescribed for filing the return.

(2) The amount of any credit against the tax which may be claimed upon the return.

(d) For purposes of this section, "remaining tax" means total tax unpaid reduced by the amount (if any) of any payment of the tax.

(e) If the amount required to be shown as a tax on a return is less than the amount shown as tax on that return, subdivision (a), subdivision (c), and subdivision (d) shall be applied by substituting that lower amount.

(f) No interest shall accrue on the portion of the penalty described in subparagraph (B) of paragraph (2) of subdivision (a).

SEC. 225. Section 25935 of the Revenue and Taxation Code is repealed.

SEC. 226. Section 25951.5 is added to the Revenue and Taxation Code, to read:

25951.5. No addition to tax shall be made under Section 25951 for any period before March 16, 1988, with respect to any underpayment, to the extent that underpayment was created or increased by any provision in the act adding this section to the code. The Franchise Tax Board shall adopt procedures, forms, and instructions to implement this section in a reasonable manner.

This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 227. Section 25957.3 is added to the Revenue and Taxation Code, to read:

25957.3. A penalty shall be imposed for failing to meet the requirements of Section 24992 relating to original issue discount reporting requirements with respect to any person subject to tax under this part. The penalty shall be determined in accordance with the provisions of Section 6706 of the Internal Revenue Code.

SEC. 228. Section 26131 of the Revenue and Taxation Code is amended to read:

26131. (a) (1) The Franchise Tax Board may, by regulation, require any bank, corporation or person, in whatever capacity acting (including lessees or mortgagors of real or personal property, fiduciaries, employers, and any officer or department of the state or

any political subdivision or agency of the state, or any city organized under a freeholder's charter, or any political body not a subdivision or agency of the state) having the control, receipt, custody, disposal, or payment of items of income specified in subdivision (b), to withhold an amount, determined by the Franchise Tax Board to reasonably represent the amount of tax due, when such items of income are included with other income of the taxpayer, and to transmit the amount withheld to the Franchise Tax Board at such time as it may designate.

(2) In the case of any disposition of a California real property interest by a person subject to Section 1445 of the Internal Revenue Code, relating to withholding of tax on dispositions of United States real property interests, the transferee shall be required to deduct and withhold a tax equal to one-third of the amount required to be withheld by the transferee under Section 1445 of the Internal Revenue Code.

(b) The items of income referred to in subdivision (a) are interest, dividends, rent, prizes and winnings, premiums, annuities, emoluments, compensation for personal services, including bonuses, and other fixed or determinable annual or periodical gains, profits and income.

(c) The Franchise Tax Board may authorize the tax under subdivision (a) to be deducted and withheld from the interest upon any securities the owners of which are not known to the withholding agent.

(d) Any bank or person failing to withhold from any payments any amounts required by such regulation to be withheld is liable for the amount withheld or the amount of taxes due from the person to whom the payments are made to an extent not in excess of the amounts required to be withheld, whichever is more, unless it is shown that the failure to withhold is due to reasonable cause.

(e) Whenever any person has withheld any amount pursuant to subdivision (a), the amount so withheld shall be held to be a special fund in trust for the State of California. The amount of such fund shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including penalties) as are applicable with respect to the taxes imposed by this part.

(f) "California real property interest" means an interest in real property described in Section 897(c)(1)(A)(i) of the Internal Revenue Code which is located in California.

SEC. 229. Section 26132.05 is added to the Revenue and Taxation Code, to read:

26132.05. (a) There shall be exempt from levy, under this chapter, all of the following:

(1) Those items of wearing apparel and those school books as are necessary for the taxpayer or for members of his or her family.

(2) If the taxpayer is the head of a family, so much of the fuel, provisions, furniture, and personal effects in his or her household, and of the arms for personal use, livestock, and poultry of the

taxpayer, as does not exceed one thousand five hundred dollars ($1,500) in value.

(3) So many of the books and tools necessary for the trade, business, or profession of the taxpayer as do not exceed in the aggregate one thousand dollars ($1,000) in value.

(4) Any amount payable to an individual with respect to his or her unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States, of any state, or of the District of Columbia or of the Commonwealth of Puerto Rico.

(5) Mail, addressed to any person, which has not been delivered to the addressee.

(6) Annuity or pension payments under the Railroad Retirement Act, benefits under the Railroad Unemployment Insurance Act, special pension payments received by a person whose name has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll (38 U.S.C. Sec. 562), and annuities based on retired or retainer pay under Chapter 73 of Title 10 of the United States Code.

(7) Any amount payable to an individual as worker's compensation (including any portion thereof payable with respect to dependents) under a worker's compensation law of the United States, any state, the District of Columbia, or the Commonwealth of Puerto Rico.

(8) If the taxpayer is required by judgment of a court of competent jurisdiction, entered prior to the date of levy, to contribute to the support of his or her minor children, so much of his or her salary, wages, or other income as is necessary to comply with that judgment.

(9) Any amount payable to or received by an individual as wages or salary for personal services, or as income derived from other sources, during any period, to the extent that the total of those amounts payable to or received by him or her during that period does not exceed the applicable exempt amount determined under subdivision (d).

(10) Any amount payable to an individual as a service-connected (within the meaning of Section 101(16) of Title 38, United States Code) disability benefit under any of the following:

(A) Subchapter II, IV, or VI of Chapter 11 of that Title 38.

(B) Subchapter I, II, or III of Chapter 19 of that Title 38.

(C) Chapter 21, 31, 32, 34, 35, 37, or 39 of that Title 38.

(b) The officer seizing property of the type described in subdivision (a) shall appraise and set aside to the owner the amount of that property declared to be exempt. If the taxpayer objects at the time of the seizure to the valuation fixed by the officer making the seizure, the Franchise Tax Board shall summon three disinterested individuals who shall make the valuation.

(c) Notwithstanding any other law, (including Section 207 of the federal Social Security Act), no property or rights to property shall be exempt from levy other than the property specifically made

exempt by subdivision (a).

(1) In the case of an individual who is paid or receives all of his or her wages, salary, and other income on a weekly basis, the amount of the wages, salary, and other income payable to or received by him or her during any week which is exempt from levy under paragraph (9) of subdivision (a) shall be:

(A) Seventy-five dollars ($75), plus

(B) Twenty-five dollars ($25) for each individual who is specified in a written statement which is submitted to the person on whom notice of levy is served and which is verified in such manner as the Franchise Tax Board shall prescribe by regulations and—

(i) Over half of whose support for the payroll period was received from the taxpayer,

(ii) Who is the spouse of the taxpayer, or who bears a relationship to the taxpayer specified in paragraphs (1) to (9), inclusive, of Section 152(a) of the Internal Revenue Code (relating to definition of dependents), and

(iii) Who is not a minor child of the taxpayer with respect to whom amounts are exempt from levy under paragraph (8) of subdivision (a) for the payroll period.

For purposes of clause (ii) of subparagraph (B) of the preceding sentence, "payroll period" shall be substituted for "taxable year" each place it appears in paragraph (9) of Section 152(a) of the Internal Revenue Code.

(2) In the case of any individual not described in paragraph (1), the amount of the wages, salary, and other income payable to or received by him or her during any applicable pay period or other fiscal period (as determined under regulations prescribed by the Franchise Tax Board) which is exempt from levy under paragraph (9) of subdivision (a) shall be an amount (determined under those regulations) which as nearly as possible will result in the same total exemption from levy for that individual over a period of time as he or she would have under paragraph (1) if during that period of time he or she were paid or received those wages, salary, and other income on a regular weekly basis.

SEC. 230. Section 26491 of the Revenue and Taxation Code is amended to read:

26491. (a) In the case of any civil proceeding which is—

(1) Brought by or against the State of California in connection with the determination, collection, or refund of any tax, interest, or penalty under this part, and

(2) Brought in a court of record of this state, the prevailing party may be awarded a judgment for reasonable litigation costs incurred in that proceeding.

(b) (1) A judgment for reasonable litigation costs shall not be awarded under subdivision (a) unless the court determines that the prevailing party has exhausted the administrative remedies available to that party under this part.

(2) An award under subdivision (a) shall be made only for

reasonable litigation costs which are allocable to the State of California and not to any other party to the action or proceeding.

(3) (A) No award for reasonable litigation costs may be made under subdivision (a) with respect to any declaratory judgment proceeding.

(B) Subparagraph (A) shall not apply to any proceeding which involves the revocation of a determination that the organization is described in Section 23701d.

(4) No award for reasonable litigation costs may be made under subdivision (a) with respect to any portion of the civil proceeding during which the prevailing party has unreasonably protracted that proceeding.

(c) For purposes of this section—

(1) The term "reasonable litigation costs" includes any of the following:

(A) Reasonable court costs.

(B) Based upon prevailing market rates for the kind or quality of services furnished any of the following:

(i) The reasonable expenses of expert witnesses in connection with the civil proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the State of California.

(ii) The reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case.

(iii) Reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding, except that those fees shall not be in excess of seventy-five dollars ($75) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding, justifies a higher rate.

(2) (A) The term "prevailing party" means any party to any proceeding described in subdivision (a) (other than the State of California or any creditor of the taxpayer involved) which—

(i) Establishes that the position of the State of California in the civil proceeding was not substantially justified, and

(ii) (I) Has substantially prevailed with respect to the amount in controversy, or

(II) Has substantially prevailed with respect to the most significant issue or set of issues presented.

(B) Any determination under subparagraph (A) as to whether a party is a prevailing party shall be made—

(i) By the court, or

(ii) By agreement of the parties.

(3) The term "civil proceeding" includes a civil action.

(d) For purposes of this section, in the case of—

(1) Multiple actions which could have been joined or consolidated, or

(2) A case or cases involving a return or returns of the same

taxpayer which could have been joined in a single proceeding in the same court, those actions or cases shall be treated as one civil proceeding regardless of whether such joinder or consolidation actually occurs, unless the court in which such action is brought determines, in its discretion, that it would be inappropriate to treat such actions or cases as joined or consolidated for purposes of this section.

(e) An order granting or denying an award for reasonable litigation costs under subdivision (a), in whole or in part, shall be incorporated as a part of the decision or judgment in the case and shall be subject to appeal in the same manner as the decision or judgment.

(f) For purposes of this section, "position of the State of California" includes either of the following:

(1) The position taken by the State of California in the civil proceeding.

(2) Any administrative action or inaction by the Franchise Tax Board (and all subsequent administrative action or inaction) upon which the proceeding is based.

SEC. 231. Sections 1800 to 1899A, inclusive, of the federal Tax Reform Act of 1986 (Public Law 99-514) enacted numerous technical corrections to 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 99-514 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 99-514.

SEC. 232. (a) The addition of Section 23438 to the Business and Professions Code and Sections 17269 and 24343.2 to the Revenue and Taxation Code by this act is not intended to affect the tax exempt status of any church or other organization which is exempt from taxation under Section 23701d of the Revenue and Taxation Code.

(b) It is not intended that any inference be drawn as the result of the addition of Section 23438 to the Business and Professions Code and Sections 17269 and 24343.2 to the Revenue and Taxation Code that the Legislature intended to preclude administrative regulations by the Franchise Tax Board which disallow business deductions on public policy grounds with respect to expenses incurred before the operative date of those sections. However, as of the operative date of those sections, any administrative regulations adopted by the Franchise Tax Board which are inconsistent with or contrary to those sections shall be of no further force or effect.

(c) The addition of the sections specified in subdivision (b) shall be applied in the computation of taxes for taxable or income years commencing on or after January 1, 1990.

SEC. 233. The Franchise Tax Board shall conduct a study of state

conformity to federal tax law provisions relating to the alternative minimum tax. The study shall include the effect of state conformity to federal law, tax policy issues, technical issues, and potential impacts upon state revenues. No later than February 15, 1991, the Franchise Tax Board shall submit a report to the Legislature of the results of the study conducted pursuant to this section.

SEC. 234. The Franchise Tax Board shall conduct a study of state conformity to federal tax law provisions relating to net operating losses. The study shall include options for continuing state conformity to federal law, tax policy issues, technical issues, and potential impacts upon state revenues. No later than February 15, 1991, the Franchise Tax Board shall submit a report to the Legislature of the results of the study conducted pursuant to this section.

SEC. 235. The Franchise Tax Board shall conduct a study of state conformity to federal tax law provisions relating to S corporations. The study shall include the effect of state conformity to federal law, tax policy issues, technical issues, and potential impacts upon state revenues. No later than October 1, 1989, the Franchise Tax Board shall submit a report to the Legislature of the results of the study conducted pursuant to this section.

SEC. 236. The Franchise Tax Board shall conduct a study of state conformity to federal tax law provisions relating to depreciation and the federal accelerated cost recovery system. The study shall include options for state conformity to federal law under the Bank and Corporation Tax Law, options for continuing state conformity under the Personal Income Tax Law, tax policy issues, technical issues, and potential impacts upon state revenues. No later than October 1, 1989, the Franchise Tax Board shall submit a report to the Legislature of the results of the study conducted pursuant to this section.

SEC. 237. 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. 238. The repeal and addition of Chapter 2.5 (commencing with Section 23400) of Part 11 of Division 2 of the Revenue and Taxation Code by Sections 23 and 24 of this act shall become operative on, and be applied only to income years beginning on or after, January 1, 1988.

SEC. 239. The repeal and addition of Section 24667 of, and the repeal of Sections 24668, 24669, and 24673.5 of, the Revenue and Taxation Code made by Sections 167 to 170, inclusive, of this act, and Section 172 of this act shall become operative on, and be applied only to income years beginning on or after, January 1, 1988.

SEC. 240. This act shall become operative only if Assembly Bill 53 of the 1987–88 Regular Session is chaptered.

SEC. 241. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

However, unless otherwise specifically provided, the provisions of this act shall be applied in the computation of taxes for taxable or income years beginning on or after January 1, 1987.

CHAPTER 1140

An act to amend Section 39005 of the Education Code, relating to school sites.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 25, 1987.]

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

SECTION 1. Section 39005 of the Education Code is amended to read:

39005. Before acquiring title to property for a new school site or for an addition to a present site, the governing board of each school district, including districts governed by a city board of education, in order to promote the safety of pupils, comprehensive community planning, and greater educational usefulness of school sites, shall give the State Department of Education written notice of the proposed acquisition and shall submit any information required by the State Department of Education, if the proposed site is within two miles, measured by air line, of that point on an airport runway or a potential runway included in an airport master plan which is nearest the site. If the property is not so located, the State Department of Education shall notify the State Department of Transportation, but the State Department of Transportation is not required to investigate or to respond after receiving notice from the State Department of Education.

Immediately after receiving notice of the proposed acquisition of property which is within two miles, measured by air line, of that point on an airport runway or a potential runway included in an airport master plan which is nearest the site, the State Department of Education shall notify the State Department of Transportation, in writing, of the proposed acquisition. The State Department of Transportation shall make an investigation and report to the State Department of Education within 30 working days after receipt of the notice. If the State Department of Transportation is no longer in operation, the State Department of Education shall, in lieu of notifying the State Department of Transportation, notify the United States Department of Transportation or any other appropriate agency, in writing, of the proposed acquisition for the purpose of obtaining from the department or other agency any information or assistance that it may desire to give.

The State Department of Education shall investigate the proposed site and, within 35 working days after receipt of the notice, shall

submit to the governing board a written report and its recommendations concerning acquisition of the site. The governing board shall not acquire title to the property until the report of the State Department of Education has been received. If the report does not favor the acquisition of the property for a school site or an addition to a present school site, the governing board shall not acquire title to the property until 30 days after the department's report is received and until the department's report has been read at a public hearing duly called after 10 days' notice published once in a newspaper of general circulation within the school district or, if there is no such newspaper, in a newspaper of general circulation within the county in which the property is located.

CHAPTER 1141

An act to amend, repeal, and add Section 1424 of the Health and Safety Code, and to add Section 14022.4 to, the Welfare and Institutions Code, relating to health care facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 25, 1987]

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

SECTION 1. Section 1424 of the Health and Safety Code is amended to read:

1424. Citations issued pursuant to this chapter shall be classified according to the nature of the violation and shall indicate the classification on the face thereof.

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

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

(2) The patient's medical condition.

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

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

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

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

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

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

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

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

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

(c) Class "A" violations are violations which the state department determines present either (1) imminent danger that death or serious harm to the patients of the long-term health care facility would result therefrom, or (2) substantial probability that death or serious physical harm to patients of the long-term health care facility would result therefrom. A physical condition or one or more practices, means, methods, or operations in use in a long-term health care facility may constitute a class "A" violation. The condition or practice constituting a class "A" violation shall be abated or eliminated immediately, unless a fixed period of time, as determined by the state department, is required for correction. A class "A" violation is subject to a civil penalty in an amount not less than one thousand dollars ($1,000) and not exceeding ten thousand dollars ($10,000) for each and every violation.

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

(d) Class "B" violations are violations which the state department determines have a direct or immediate relationship to the health, safety, or security of long-term health care facility patients, other than class "AA" or "A" violations. Unless otherwise determined by the state department to be a class "A" violation pursuant to this chapter and rules and regulations adopted pursuant thereto, any violation of a patient's rights as set forth in Sections 72527 and 73523 of Title 22 of the California Administrative Code, which is determined by the state department to cause or under circumstances

likely to cause significant humiliation, indignity, anxiety, or other emotional trauma to a patient is a class "B" violation. A class "B" violation is subject to a civil penalty in an amount not less than one hundred dollars ($100) and not exceeding one thousand dollars ($1,000) for each and every violation. A citation for a class "B" violation shall specify the time within which the violation is required to be corrected. If the state department establishes that a violation occurred, the licensee shall have the burden of proving that the licensee violating the regulation did what might reasonably be expected of a long-term health care facility licensee, acting under similar circumstances, to comply with the regulation. If the licensee sustains this burden, then the citation may be reduced or dismissed.

If a class "B" violation is corrected within the time specified, no civil penalties shall be imposed, unless it is a second or subsequent violation of the same regulation occurring within the period since and including the previous full annual licensing survey inspection or 12 months, whichever is greater. In no case, shall the period extend beyond 13 months. At the citation review conference, the director's designee may, utilizing the criteria set forth in subdivision (a), waive or reduce the penalty as specified in subdivision (a) of Section 1428, taking into consideration the seriousness of the previous and present violations, the similarity between the two violations, the extent to which there is a direct relationship to the health and safety or security of patients, and the good faith exercised by the licensee in correcting the problem. The decision to waive or not to waive these penalties shall not be reviewable. In the event of any violation under this paragraph, if the state department establishes that a violation occurred, the licensee shall have the burden of proving that the licensee violating the regulation did what might reasonably be expected of a long-term health care facility licensee, acting under similar circumstances, to comply with the regulation. If the licensee sustains this burden, then the citation may be reduced or dismissed.

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

"Willful material omission," as used in this section, means the willful failure to record any untoward event which has affected the health, safety, or security of the specific patient, and which was omitted with the knowledge that the records falsely reflect the condition of the resident or the care or services provided. A violation of this subdivision may result in a civil penalty not to exceed ten thousand dollars ($10,000), as specified in paragraphs (1) to (3),

inclusive. However, in no case shall the civil penalty be trebled.

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

(2) Where the penalty assessed is one thousand dollars ($1,000) or less, the violation shall be issued and enforced, except as provided in this subdivision, in the same manner as a class "B" violation, and shall include the right of appeal as specified in Section 1428 and the payment of the minimum fine as specified in subdivision (d) and in Section 1428.1. Where the assessed penalty is in excess of one thousand dollars ($1,000), the violation shall be issued and enforced, except as provided in this subdivision, in the same manner as a class "A" violation, and shall include the right of appeal as specified in Section 1428 and the payment of the minumum fine as specified in Section 1428.1.

Nothing in this section shall be construed as a change in previous law enacted by Chapter 11 of the Statutes of 1985 relative to this paragraph, but merely as a clarification of existing law.

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

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

(g) This section shall become inoperative December 1, 1990, and as of January 1, 1991, is repealed, unless a later enacted statute which becomes operative on or before December 1, 1990, changes or repeals those dates.

SEC. 2. Section 1424 is added to the Health and Safety Code, to read:

1424. Citations issued pursuant to this chapter shall be classified according to the nature of the violation and shall indicate the classification on the face thereof.

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

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

(2) The patient's medical condition.

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

disability or disorder.

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

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

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

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

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

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

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

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

(c) Class "A" violations are violations which the state department determines present either (1) imminent danger that death or serious harm to the patients of the long-term health care facility would result therefrom, or (2) substantial probability that death or serious physical harm to patients of the long-term health care facility would result therefrom. A physical condition or one or more practices, means, methods, or operations in use in a long-term health care facility may constitute a class "A" violation. The condition or practice constituting a class "A" violation shall be abated or eliminated immediately, unless a fixed period of time, as determined by the state department, is required for correction. A class "A" violation is subject to a civil penalty in an amount not less than one thousand dollars ($1,000) and not exceeding ten thousand dollars ($10,000) for each and every violation.

(d) Class "B" violations are violations which the state department determines have a direct or immediate relationship to the health, safety, or security of long-term health care facility patients, other

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

If a class "B" violation is corrected within the time specified, no civil penalties shall be imposed, unless it is a second or subsequent violation of the same regulation occurring within the period since and including the previous full annual licensing survey inspection or 12 months, whichever is greater. In no case, shall the period extend beyond 13 months. At the citation review conference, the director's designee may, utilizing the criteria set forth in subdivision (a), waive or reduce the penalty as specified in subdivision (a) of Section 1428, taking into consideration the seriousness of the previous and present violations, the similarity between the two violations, the extent to which there is a direct relationship to the health and safety or security of patients, and the good faith exercised by the licensee in correcting the problem. The decision to waive or not to waive these penalties shall not be reviewable.

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

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

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

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

(2) Where the penalty assessed is one thousand dollars ($1,000) or less, the violation shall be issued and enforced, except as provided in this subdivision, in the same manner as a class "B" violation, and shall include the right of appeal as specified in Section 1428 and the payment of the minimum fine as specified in subdivision (d) and in Section 1428.1. Where the assessed penalty is in excess of one thousand dollars ($1,000), the violation shall be issued and enforced, except as provided in this subdivision, in the same manner as a class "A" violation, and shall include the right of appeal as specified in Section 1428 and the payment of the minimum fine as specified in Section 1428.1.

Nothing in this section shall be construed as a change in previous law enacted by Chapter 11 of the Statutes of 1985 relative to this paragraph, but merely as a clarification of existing law.

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

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

(g) This section shall become operative December 1, 1990.

SEC. 3. Section 14022.4 is added to the Welfare and Institutions Code, to read:

14022.4. (a) Any skilled nursing or intermediate care facility currently certified to participate in the Medi-Cal program may not voluntarily withdraw from the program unless all of the following conditions are met:

(1) The facility shall file with the department a notice of intent to withdraw from the Medi-Cal program.

(2) Except for patients to be transferred or discharged only for medical reasons, or for patients' welfare or that of other patients, or for nonpayment for his or her stay, the facility shall not subsequently evict any Medi-Cal recipient or private pay patient residing in the facility at the time the notice of intent to withdraw from the Medi-Cal program is filed.

(3) Patients admitted to the facility on or after the date of the notice of intent to withdraw from the Medi-Cal program shall be advised orally and in writing of both the following:

(A) That the facility intends to withdraw from the Medi-Cal program.

(B) That notwithstanding Section 14124.7, the facility is not required to keep a new resident who converts from private pay to Medi-Cal.

(b) Subdivision (a) shall not apply to facilities that have filed, prior to May 1, 1987, a notice of intent to withdraw from the Medi-Cal program.

(c) The department shall notify the appropriate substate ombudsmen monthly as to which facilities have filed a notice of intent to withdraw from the Medi-Cal program. This information shall also be made available to the public and noted in facility files available in each district office.

(d) The facility may formally withdraw from the Medi-Cal program when all patients residing in the facility at the time the facility filed the notice of intent to withdraw from the Medi-Cal program no longer reside in the facility.

(e) If a skilled nursing or intermediate care facility that has withdrawn as a Medi-Cal provider pursuant to this section subsequently reapplies to the department to become a Medi-Cal provider, the department shall require as a condition of becoming a Medi-Cal provider that the facility enter into a five-year Medi-Cal provider contract with the department.

(f) (1) This section shall be inoperative in the event federal law or federal or state appellate judicial decisions prohibit implementation or invalidate any part of this section.

(2) In the event of any occurrence which renders this section inoperative pursuant to paragraph (1), the department shall within 30 days, report that information to the Legislature.

(g) (1) This section does not apply to any skilled nursing facility or intermediate care facility which ceases operations entirely.

(2) For purposes of this subdivision, "ceases operations entirely" means not being in operation for a period of not less than 12 months.

SEC. 4. (a) The Director of Health Services shall report to the Legislature by January 1, 1990, on the impact of the amendment of subdivisions (b), (c), and (d) of Section 1424 of the Health and Safety Code by Section 1 of this act on the ability of the State Department of Health Services to carry out its mandated responsibilities relating to long-term health care facility regulation.

(b) The purpose of the report required by this section is to ensure that the amendment of subdivisions (b), (c), and (d) of Section 1424 of the Health and Safety Code by this act shall only be allowed to continue if these changes do not result in the public's interest being harmed. In evaluating the public's interest, consideration shall be given to the imposition of an undue burden on the regulatory enforcement process, such as creating inordinate delays in processing enforcement actions, requiring the use of excessive departmental staff time or resources for contesting appeals and civil actions, and the reasonableness and fairness of the regulatory enforcement process.

(c) The report shall include specific data on all of the following:

(1) The number of appeals to citation review conferences filed by long-term health care facilities and the outcome of the appeals for:

(A) Twelve months preceding enactment of this section.

(B) Twenty-four months subsequent to enactment of this section, broken down into the number of appeals filed under subdivisions (b), (c), and (d) of the Health and Safety Code, as amended by Section 1 of this act.

(2) The number of civil actions filed in municipal court by long-term health care facilities and the outcome of the cases for:

(A) Twelve months preceding enactment of this section.

(B) Twenty-four months subsequent to enactment of this section, broken down into the number of appeals filed under subdivisions (b), (c), and (d) of the Health and Safety Code, as amended by Section 1 of this act.

(3) Increase in staff time and resources associated with appeals and civil actions filed under subdivisions (b), (c), and (d) of the Health and Safety Code, as amended by Section 1 of this act.

(4) Impact of appeals and civil actions filed under subdivisions (b), (c), and (d) of the Health and Safety Code, as amended by Section 1 of this act, on the length of time to resolve an appeal.

(5) Impact that appeals and civil actions filed under subdivisions (b), (c), and (d) of the Health and Safety Code, as amended by Section 1 of this act, have on the department's ability to assess fines and enforce long-term health care facility regulations.

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

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

CHAPTER 1142

An act to add Section 1254.5 to the Health and Safety Code, relating to health.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 25, 1987]

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

SECTION 1. Section 1254.5 is added to the Health and Safety Code, to read:

1254.5. (a) The Legislature finds and declares that the disease of eating disorders is not simply medical or psychiatric, but involves biological, sociological, psychological, family, medical, and spiritual

components. In addition, the Legislature finds and declares that the treatment of eating disorders is multifaceted, and like the treatment of chemical dependency, does not fall neatly into either the traditional medical or psychiatric milieu.

(b) The inpatient treatment of eating disorders shall be provided only in state licensed hospitals, which may be general acute care hospitals as defined in subdivision (a) of Section 1250, acute psychiatric hospitals as defined in subdivision (b) of Section 1250, or any other licensed health facility designated by the State Department of Health Services.

(c) "Eating disorders," for the purposes of this section, means anorexia nervosa and bulimia as defined by the 1980 Diagnostic and Statistical Manual of Mental Disorders (DSM-III) published by the American Psychiatric Association.

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 1143

An act to add Section 49427 to the Education Code, relating to school health services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 26, 1987]

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

SECTION 1. Section 49427 is added to the Education Code, to read:

49427. (a) It is the intent of the Legislature that the governing board of each school district and each county superintendent of schools maintain fundamental school health services at a level that is adequate to accomplish all of the following:

(1) Preserve pupils' ability to learn.

(2) Fulfill existing state requirements and policies regarding pupils' health.

(3) Contain health care costs through preventive programs and education.

(b) The Legislature finds and declares that the provision of these services may be in jeopardy due to the current caseloads in the public schools, and that failure to maintain adequate health services and standards will result in pupils' poorer health and ability to learn.

(c) The State Department of Health Services shall conduct a

study to:

(1) Ascertain the level of compliance by school districts and county offices of education with existing mandated school health services including, but not limited to, vision and hearing screenings, immunizations, scoliosis screenings, child health programs, disability prevention programs, and special education health assessments.

(2) Evaluate the extent to which other medically prudent services are being provided which enable a pupil to learn or preserve a pupil's ability to learn including, but not limited to, health and developmental assessments, specialized physical health care services, health maintenance planning, substance abuse intervention and referral procedures, and health care and nutrition instruction.

(d) The State Department of Health Services shall analyze existing records submitted to state agencies by school districts and shall additionally assess the health services in a representative sampling of school districts and county offices of education to include, but not be limited to, those considered urban, rural, high wealth, low wealth, increasing enrollment, decreasing enrollment, and districts with no health services available as of December 31, 1986, and districts utilizing federal funds and community resources for the provision of these services.

(e) The State Department of Health Services shall evaluate services in kindergarten and grades 1 to 12, inclusive.

(f) In conducting the study, the State Department of Health Services shall consult with professionals and organizations closely associated with children's school health programs to include, but not be limited to, health supervisors, the California School Nurses Organization, the American Academy of Pediatricians, the California Conference of Local Health Officers, the California School Boards Association, and the State Department of Education.

(g) The report shall be made available to the Governor, the Legislature, the Superintendent of Public Instruction, and the public no later than July 30, 1988.

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 maintain a cost-effective and preventive health program for California's pupils and in order to assess school children's health services as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1144

An act to amend Sections 6203, 6471, 6472, 6474, and 6477 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987]

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

SECTION 1. The Legislature finds and declares that California retailers are subject to unfair competition and are at a competitive disadvantage because interstate mail order retailers are not presently required to collect use tax from their California customers. The Legislature further finds and declares that fair and equitable administration of the Sales and Use Tax Law and effective collection of existing tax liability requires that retailers located out of this state who engage in mail order sales or utilize electronic media collect tax from California consumers.

SEC. 2. The Legislature also finds and declares that the prepayment threshold for the collection of tax under the Sales and Use Tax Law has not been increased since 1966, thereby causing a hardship to California's small businesses, and that the threshold for this tax prepayment should be adjusted to reflect the increase in the Consumer Price Index since 1966.

SEC. 3. Section 6203 of the Revenue and Taxation Code is amended to read:

6203. Except as provided by Sections 6292 and 6293, every retailer engaged in business in this state and making sales of tangible personal property for storage, use, or other consumption in this state, not exempted under Chapter 3.5 (commencing with Section 6271) or Chapter 4 (commencing with Section 6351), shall, at the time of making the sales or, if the storage, use, or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use, or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the board.

As respects leases constituting sales of tangible personal property, the tax shall be collected from the lessee at the time amounts are paid by the lessee under the lease.

"Retailer engaged in business in this state" as used in this and the preceding section means and includes any of the following:

(a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business.

(b) Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of

the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property.

(c) As respects a lease, any retailer deriving rentals from a lease of tangible personal property situated in this state.

(d) Any retailer who, pursuant to a contract with a broadcaster or publisher located in this state, solicits orders for tangible personal property by means of advertising which is disseminated primarily to consumers located in this state and only secondarily to bordering jurisdictions.

(e) Any retailer soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this state or benefits from the location in this state of authorized installation, servicing, or repair facilities.

(f) Any retailer owned or controlled by the same interests which own or control any retailer engaged in business in the same or a similar line of business in this state.

(g) Any retailer having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this section.

(h) Any retailer who, pursuant to a contract with a cable television operator located in this state, solicits orders for tangible personal property by means of advertising which is transmitted or distributed over a cable television system in this state.

SEC. 4. Section 6471 of the Revenue and Taxation Code is amended to read:

6471. (a) Upon written notification by the board, any person whose estimated measure of tax liability under this part averages fifty thousand dollars ($50,000) or more per month, as determined by the board, shall, without regard to the measure of tax in any one month make prepayments as prescribed in this section.

(1) In the first, third, and fourth calendar quarters, the person shall prepay not less than 90 percent of the amount of state and local tax liability for each of the first two monthly periods of each quarterly period.

(2) In the second calendar quarter, the person shall prepay a first prepayment of 95 percent of the amount of state and local tax liability for the first monthly period of each quarterly period and a second prepayment of either of the following:

(A) Ninety-five percent of the amount of state and local tax liability for the second monthly period of the quarterly period, plus 95 percent of the amount of state and local tax liability for the first 15 days of the third monthly period of the quarterly period.

(B) Ninety-five percent of the amount of state and local tax liability for the second monthly period of the quarterly period, plus 50 percent of 95 percent of the amount of the liability for the second monthly period of the quarterly period.

(b) Persons engaged in their present business during all of the

corresponding quarterly period of the preceding year, or persons who are successors to a business which was in operation during all of that quarterly period, may satisfy the above monthly prepayment requirements for the first, third, and fourth calendar quarters by payment of an amount equal to one-third of the measure of tax liability reported on the return or returns filed for that quarterly period of the preceding year multiplied by the state and local tax rate in effect during the month for which the prepayment is made.

These persons may satisfy their prepayment requirements for the second calendar quarter by making a first prepayment of an amount equal to one-third of the measure of tax liability reported, and a second prepayment of an amount equal to one-half of the measure of tax liability reported, on the return or returns filed for that quarterly period of the preceding year multiplied by the state and local tax rate in effect during the month for which the prepayment is made.

Prepayments shall be made during the quarterly periods designated by the board and during each succeeding quarterly periods until further notified in writing by the board.

SEC. 5. Section 6472 of the Revenue and Taxation Code is amended to read:

6472. For purposes of Section 6471, prepayment shall be accompanied by a report of the amount of the prepayment in a form prescribed by the board and shall be made to the board as follows:

(a) In the first, third, and fourth calendar quarters, on or before the 24th day next following the end of each of the first two monthly periods of each quarterly period.

(b) In the second calendar quarter as follows:

(1) The first prepayment on or before the 24th day next following the end of the first monthly period of each quarterly period.

(2) The second prepayment on or before the 23rd day of the third monthly period of each quarterly period for the second monthly period and the first 15 days of the third monthly period of each quarterly period.

SEC. 6. Section 6474 of the Revenue and Taxation Code is amended to read:

6474. In determining whether a person's estimated measure of tax liability averages fifty thousand dollars ($50,000) or more per month for purposes of Section 6471, the board may consider tax returns filed pursuant to this part as well as any information in the board's possession or which may come into its possession.

SEC. 7. Section 6477 of the Revenue and Taxation Code is amended to read:

6477. Any person required to make a prepayment pursuant to Section 6471 who fails to make a prepayment before the last day of the monthly period following the quarterly period in which the prepayment became due and who files a timely return and payment for the quarterly period in which the prepayment became due shall also pay a penalty of 6 percent of the amount equal to 90 percent or

95 percent of the tax liability, as prescribed by that section, for each of the periods during that quarterly period for which a required prepayment was not made.

SEC. 8. Sections 4 to 7, inclusive, of this act shall become operative only if the Attorney General certifies to the Legislature and to the Executive Secretary of the State Board of Equalization that subdivisions (d), (e), (f), and (g) of Section 6203 of the Revenue and Taxation Code, as added by this act, are legally enforceable under the United States Constitution, as determined by a final adjudication in the courts, and the Department of Finance certifies to the Legislature that revenues attributable to those subdivisions are being remitted to the State Board of Equalization, in which case those sections of this act shall become operative on the first day of the second calendar quarter commencing after the date of that certification.

CHAPTER 1145

An act to amend Section 6203 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987]

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

SECTION 1. Section 6203 of the Revenue and Taxation Code is amended to read:

6203. Except as provided by Sections 6292 and 6293, every retailer engaged in business in this state and making sales of tangible personal property for storage, use, or other consumption in this state, not exempted under Chapter 3.5 (commencing with Section 6271) or Chapter 4 (commencing with Section 6351), shall, at the time of making the sales or, if the storage, use, or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use, or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the board.

As respects leases constituting sales of tangible personal property, the tax shall be collected from the lessee at the time amounts are paid by the lessee under the lease.

"Retailer engaged in business in this state" as used in this and the preceding section means and includes any of the following:

(a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business.

(b) Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property.

(c) As respects a lease, any retailer deriving rentals from a lease of tangible personal property situated in this state.

(d) Any retailer soliciting orders for tangible personal property by means of a telecommunication or television shopping system (which utilizes toll free numbers) which is intended by the retailer to be broadcast by cable television or other means of broadcasting, to consumers located in this state.

(e) Any retailer soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this state or benefits from the location in this state of authorized installation, servicing, or repair facilities.

SEC. 2. Section 6203 of the Revenue and Taxation Code is amended to read:

6203. Except as provided by Sections 6292 and 6293, every retailer engaged in business in this state and making sales of tangible personal property for storage, use, or other consumption in this state, not exempted under Chapter 3.5 (commencing with Section 6271) or Chapter 4 (commencing with Section 6351), shall, at the time of making the sales or, if the storage, use, or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use, or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the board.

As respects leases constituting sales of tangible personal property, the tax shall be collected from the lessee at the time amounts are paid by the lessee under the lease.

"Retailer engaged in business in this state" as used in this and the preceding section means and includes any of the following:

(a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business.

(b) Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property.

(c) As respects a lease, any retailer deriving rentals from a lease of tangible personal property situated in this state.

(d) Any retailer soliciting orders for tangible personal property by means of a telecommunication or television shopping system (which utilizes toll free numbers) which is intended by the retailer to be broadcast by cable television of other means of broadcasting, to

consumers located in this state.

(e) Any retailer who, pursuant to a contract with a broadcaster or publisher located in this state, solicits orders for tangible personal property by means of advertising which is disseminated primarily to consumers located in this state and only secondarily to bordering jurisdictions.

(f) Any retailer soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this state or benefits from the location in this state of authorized installation, servicing, or repair facilities.

(g) Any retailer owned or controlled by the same interests which own or control any retailer engaged in business in the same or a similar line of business in this state.

(h) Any retailer having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this section.

(i) Any retailer who, pursuant to a contract with a cable television operator located in this state, solicits orders for tangible personal property by means of advertising which is transmitted or distributed over a cable television system in this state.

SEC. 3. Section 2 of this bill incorporates amendments to Section 6203 of the Revenue and Taxation Code proposed by both this bill and AB 229. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1988, (2) each bill amends Section 6203 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 229, in which case Section 1 of this bill shall not become operative.

CHAPTER 1146

An act to amend Sections 17701 and 39250 of, and to add Section 39141.4 to, the Education Code, relating to school buildings.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987]

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

SECTION 1. This act shall be known and may be cited as the Hughes Earthquake Safety Act of 1987.

The purpose of this act is to ensure that no public school pupils are housed in unsafe school buildings after September 1, 1990.

SEC. 2. Section 17701 of the Education Code is amended to read:

17701. (a) The Legislature hereby declares that it is in the interest of the state and the people thereof for the state to reconstruct, remodel, or replace existing school buildings that are

educationally inadequate or that do not meet present-day structural safety requirements, and to acquire new schoolsites and buildings for the purpose of making them available to local school districts for the pupils of the public school system, that system being a matter of general concern inasmuch as the education of the children of the state is an obligation and function of the state.

(b) In order to expedite the elimination of the use of nonconforming school buildings that are used or designed to be used for instructional purposes or intended to be entered by pupils, the State Allocation Board may establish criteria that considers special circumstances under which funds may be allocated for the reconstruction of nonconforming buildings. The funds allocated in accordance with this section shall not exceed 75 percent of the cost of facility replacement.

SEC. 3. Section 39141.4 is added to the Education Code, to read:

39141.4. Notwithstanding any provision of law except Section 39250, a leased building that does not meet the requirements of Section 39140 may not be used as a school building, as defined in Section 39141, after September 1, 1990.

SEC. 4. Section 39250 of the Education Code is amended to read:

39250. The governing board of a school district may:

(a) Lease buildings and other facilities such as administrative offices, warehouses, athletic facilities, outdoor assembly facilities, auditoriums, quarters for adult education, transportation facilities, and communication facilities, for a period of not to exceed 16 years.

(b) Lease property from the federal government, the state, or any county, city and county, city, or district for the purpose of constructing school buildings and facilities thereon.

Any building leased or lease-purchased, shall be deemed the construction or alteration of a school building, as those terms are used in Article 3 (commencing with Section 39140). The governing board of a school district may request and obtain from the State Allocation Board authority for use of any such building not meeting the structural standards prescribed by Article 3 (commencing with Section 39140) for a maximum of three years upon presentation of satisfactory evidence to the State Allocation Board that the district is proceeding in a timely manner with a construction program that will eliminate the need for the leased facilities within that time period. A building or facility used by a school district under a lease or lease-purchase agreement into which neither pupils nor teachers are required to enter or that would be excluded from the meaning of "school building," as defined in Section 39214, shall not be considered to be a "school building" within the meaning of Section 39141.

CHAPTER 1147

An act to amend Section 12034 of, and to add Sections 246.1 and 12022.55 to, the Penal Code, relating to crime, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987.]

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

SECTION 1. Section 246.1 is added to the Penal Code, to read:

246.1. (a) Except as provided in subdivision (f), upon the conviction of any person found guilty of murder in the first or second degree, manslaughter, attempted murder, assault with a deadly weapon, or the unlawful discharge or brandishing of a firearm from or at an occupied vehicle where the victim was killed, attacked, or assaulted from or in a motor vehicle by the use of a firearm on a public street or highway, the court shall order a vehicle used in the commission of that offense sold.

Any vehicle ordered to be sold pursuant to this subdivision shall be surrendered to the sheriff of the county or the chief of police of the city in which the violation occurred. The officer to whom the vehicle is surrendered shall promptly ascertain from the Department of Motor Vehicles the names and addresses of all legal and registered owners of the vehicle and within five days of receiving that information, shall send by certified mail a notice to all legal and registered owners of the vehicle other than the defendant, at the addresses obtained from the department, informing them that the vehicle has been declared a nuisance and will be sold or otherwise disposed of pursuant to this section, and of the approximate date and location of the sale or other disposition. The notice shall also inform any legal owner of its right to conduct the sale pursuant to subdivision (b).

(b) Any legal owner which in the regular course of its business conducts sales of repossessed or surrendered motor vehicles may take possession and conduct the sale of the vehicle if it notifies the officer to whom the vehicle is surrendered of its intent to conduct the sale within 15 days of the mailing of the notice pursuant to subdivision (a). Sale of the vehicle pursuant to this subdivision may be conducted at the time, in the manner, and on the notice usually given by the legal owner for the sale of repossessed or surrendered vehicles. The proceeds of any sale conducted by the legal owner shall be disposed of as provided in subdivision (d).

(c) If the legal owner does not notify the officer to whom the vehicle is surrendered of its intent to conduct the sale as provided in subdivision (b), the officer shall offer the vehicle for sale at public auction within 60 days of receiving the vehicle. At least 10 days but not more than 20 days prior to the sale, not counting the day of sale,

the officer shall give notice of the sale by advertising once in a newspaper of general circulation published in the city or county, as the case may be, in which the vehicle is located, which notice shall contain a description of the make, year, model, identification number, and license number of the vehicle, and the date, time, and location of the sale. For motorcycles, the engine number shall also be included. If there is no newspaper of general circulation published in the county, notice shall be given by posting a notice of sale containing the information required by this subdivision in three of the most public places in the city or county in which the vehicle is located and at the place where the vehicle is to be sold for 10 consecutive days prior to and including the day of the sale.

(d) The proceeds of a sale conducted pursuant to this section shall be disposed of in the following priority:

(1) To satisfy the costs of the sale, including costs incurred with respect to the taking and keeping of the vehicle pending sale.

(2) To the legal owner in an amount to satisfy the indebtedness owed to the legal owner remaining as of the date of sale, including accrued interest or finance charges and delinquency charges.

(3) To the holder of any subordinate lien or encumbrance on the vehicle to satisfy any indebtedness so secured if written notification of demand is received before distribution of the proceeds is completed. The holder of a subordinate lien or encumbrance, if requested, shall reasonably furnish reasonable proof of its interest, and unless it does so on request is not entitled to distribution pursuant to this paragraph.

(4) To any other person who can establish an interest in the vehicle, including a community property interest, to the extent of his or her provable interest.

(5) The balance, if any, to the city or county in which the violation occurred, to be deposited in a special account in its general fund to be used exclusively to pay the costs or a part of the costs of providing services or education to prevent juvenile violence.

The person conducting the sale shall disburse the proceeds of the sale as provided in this subdivision, and provide a written accounting regarding the disposition to all persons entitled to or claiming a share of the proceeds, within 15 days after the sale is conducted.

(e) If the vehicle to be sold under this section is not of the type that can readily be sold to the public generally, the vehicle shall be destroyed or donated to an eleemosynary institution.

(f) No vehicle may be sold pursuant to this section in either of the following circumstances:

(1) The vehicle is stolen, unless the identity of the legal and registered owners of the vehicle cannot be reasonably ascertained.

(2) The vehicle is owned by another, or there is a community property interest in the vehicle owned by a person other than the defendant and the vehicle is the only vehicle available to the defendant's immediate family which may be operated on the highway with a class 3 or class 4 driver's license.

(g) A vehicle is used in the commission of a violation of the offenses enumerated in subdivision (a) if a firearm is discharged either from the vehicle at another person or by an occupant of a vehicle other than the vehicle in which the victim is an occupant.

SEC. 2. Section 12022.55 is added to the Penal Code, to read:

12022.55. Notwithstanding Section 12022.5, any person who, with the intent to inflict great bodily injury or death, inflicts great bodily injury, as defined in Section 12022.7, or causes the death of a person, other than an occupant of a motor vehicle, as a result of discharging a firearm from a motor vehicle in the commission of a felony or attempted felony, shall, upon conviction of the felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of imprisonment in the state prison for five years.

SEC. 3. Section 12034 of the Penal Code is amended to read:

12034. (a) It is a misdemeanor for a driver of any motor vehicle or the owner of any motor vehicle, whether or not the owner of the vehicle is occupying the vehicle, knowingly to permit any other person to carry into or bring into the vehicle a firearm in violation of Section 12031 of this code or Section 2006 of the Fish and Game Code.

(b) Any driver or owner of any vehicle, whether or not the owner of the vehicle is occupying the vehicle, who knowingly permits any other person to discharge any firearm from the vehicle is punishable by imprisonment in the county jail for not more than one year or in state prison for 16 months or two or three years.

(c) Any person who willfully and maliciously discharges a firearm from a motor vehicle at another person other than an occupant of a motor vehicle is guilty of a felony punishable by imprisonment in state prison for three, five, or seven years.

(d) Except as provided in Section 3002 of the Fish and Game Code, any person who willfully and maliciously discharges a firearm from a motor vehicle is guilty of a public offense punishable by imprisonment in the county jail for not more than one year or in the state prison.

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.

Additionally, 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. 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 the shooting of motorists on this state's public streets and highways a serious felony offense, and in order to deter persons from violent actions upon our public streets and highways, it is essential that this act take effect immediately.

CHAPTER 1148

An act to amend Sections 19815.6, 20603, and 20607 of, and to add Sections 19816.17 and 20745 to, the Government Code, relating to state agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987]

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

SECTION 1. Section 19815.6 of the Government Code is amended to read:

19815.6. (a) Notwithstanding the provisions of Sections 11042 and 11043, the chief counsel shall represent the department in all legal matters in which the department is interested, before any administrative agency or court of law.

(b) The department may charge state agencies and departments for the actual and necessary costs of legal services rendered by the legal division in unfair practice cases, representation cases, and requests for injunctive relief arising pursuant to Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1, in grievance arbitration cases arising under negotiated memoranda of understanding, and in all labor law and nonmerit personnel matters in state and federal courts.

(c) In grievance arbitration cases arising pursuant to memoranda of understanding negotiated pursuant to Sections 3517 and 3517.5, the department may charge state agencies involved for the actual and necessary costs of arbitration, including the state's share of the arbitrator's fees, transcription fees, and other related costs.

(d) The department may charge state agencies for their pro rata share of the actual and necessary costs of negotiating and administering memoranda of understanding pursuant to Sections 3517 and 3517.5.

SEC. 2. Section 19816.17 is added to the Government Code, to read:

19816.17. The department may enter into contracts for the provision of legally authorized employee benefits not requiring voluntary participation or payroll deductions. Where these contracts are made, the Controller shall transfer from the operating budgets

of the departments participating in the contract to the State Payroll Revolving Fund, an amount sufficient to fund each department's per capita cost. The Controller shall pay the contractor or contractors pursuant to the master payment schedule and the certification from the department.

SEC. 3. Section 20603 of the Government Code is amended to read:

20603. (a) The normal rate of contribution for a state miscellaneous member whose service is not included in the federal system shall be 6 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid that member for service rendered on and after July 1, 1976. The normal rate of contribution for a school member, or a local miscellaneous member shall be 7 percent of the compensation paid that member for service rendered on and after the operative date of the amendments to this section at the 1971 Regular Session.

The normal rate of contribution as established under this subdivision for a member whose service is included in the federal system, and whose service retirement allowance is reduced under Section 21251.13 because of that inclusion, shall be reduced by one-third as applied to compensation not exceeding four hundred dollars ($400) per month for service after the date of execution of the agreement including service in the federal system and prior to termination of the agreement with respect to the coverage group to which he or she belongs.

(b) The normal rate of contribution for a state miscellaneous member whose service has been included in the federal system shall be 5 percent of compensation in excess of five hundred thirteen dollars ($513) per month paid that member for service rendered on and after July 1, 1976.

(c) The normal rate of contribution for a state miscellaneous member who elects to become subject to Section 21251.146 or Section 21251.147 shall be 0 percent.

(d) Notwithstanding any other provision of this part, state member contributions on premium compensation for planned overtime paid at the "half-time" rate as part of the regular shift under the federal Fair Labor Standards Act or the Memorandum of Understanding of State Bargaining Unit 8 are waived for the period April 15, 1985, through June 30, 1988.

This subdivision applies to State Bargaining Unit 8 and becomes effective only if the board approves a waiver of employer contributions on the same premium compensation for the same period of time. If this subdivision is approved by the board, benefits shall be calculated to include overtime paid at the one-half time rate.

SEC. 4. Section 20607 of the Government Code is amended to read:

20607. (a) The normal rate of contribution for state peace officer/firefighter members shall be 8 percent of the compensation in excess of two hundred thirty-eight dollars ($238) per month paid

those members.

(b) Notwithstanding any other provision of this part, state member contributions on premium compensation for planned overtime paid at the "half-time" rate as part of the regular shift under the federal Fair Labor Standards Act or the Memorandum of Understanding of State Bargaining Unit 8 are waived for the period April 15, 1985, through June 30, 1988.

This subdivision applies to State Bargaining Unit 8 and becomes effective only if the board approves a waiver of employer contributions on the same premium compensation for the same period of time. If this subdivision is approved by the board, benefits shall be calculated to include overtime paid at the one-half time rate.

SEC. 5. Section 20745 is added to the Government Code, to read:

20745. Notwithstanding any other provision of this part, the state's contribution on premium compensation for planned overtime paid at the "half-time" rate as part of the regular shift under the federal Fair Labor Standards Act or the Memorandum of Understanding of State Bargaining Unit 8 are waived for the period April 15, 1985, through June 30, 1988. This section applies to State Bargaining Unit 8 and becomes effective only if the board approves a waiver of employer contributions on the same premium compensation for the same period of time. If this section is approved by the board, benefits shall be calculated to include overtime paid at the one-half time rate.

SEC. 6. The following memoranda of understanding prepared pursuant to Section 3517.5 and entered into by the state employer and the following employee organizations on the dates listed below, which require the expenditure of funds, are hereby approved for the purposes of Section 3517.6:

(a) Unit 5—California Association of Highway Patrolmen, dated July 20, 1987.

(b) Unit 8—California Department of Forestry Employees Association, dated August 5, 1987.

(c) Unit 10—California Association of Professional Scientists, dated August 6, 1987.

(d) Unit 16—Union of American Physicians and Dentists, dated July 17, 1987.

SEC. 7. Notwithstanding Section 3517.6, any memorandum of understanding that requires the expenditure of funds shall become effective even if the memorandum of understanding is approved by the Legislature in legislation other than the annual Budget Act.

SEC. 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 provisions of this act to be applicable for the entire 1987–88 fiscal year, or as much thereof as possible, and so permit the orderly administration of state government as soon as possible it is necessary for this act to take effect immediately.

CHAPTER 1149

An act to add Section 14040.5 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987]

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

SECTION 1. Section 14040.5 is added to the Welfare and Institutions Code, to read:

14040.5. (a) Billing intermediaries shall register with the director and shall obtain an identifier code which shall be part of all Medi-Cal claims submitted by any billing intermediary.

(b) Any provider using a billing intermediary to bill the Medi-Cal program shall provide written notification to the director of the name and address of the billing intermediary.

(c) Any Medi-Cal claim submitted by a billing intermediary failing to comply with the requirements of this section will be subject to denial by the director. The director may deny or withdraw registration to a billing intermediary based upon failure to comply with this section or for involvement of a billing intermediary in illegal submission of claims.

(d) For purposes of this section, a billing intermediary includes any entity including a partnership, corporation, sole proprietorship, or person which bills Medi-Cal on behalf of a provider pursuant to a contractual relationship with the provider. As used in this section a billing intermediary does not include salaried employees of a provider.

(e) As used in this section "provider" means any individual, partnership, clinic, group, association, corporation, or institution as defined in Section 51051 of Title 22 of the California Administrative Code, and includes any officer, director, agent, or employee thereof.

SEC. 2. Section 1 of this act shall become operative July 1, 1988.

CHAPTER 1150

An act to add Section 867 to the Financial Code, relating to financial instruments.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987.]

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

SECTION 1. Section 867 is added to the Financial Code, to read:

867. (a) Funds deposited in an account at a depository

institution shall be available on the second business day after the business day on which those funds are deposited in the case of a cashier's check, certified check, teller's check, or depository check subject to the following:

(1) The check is endorsed only by the person to whom it was issued.

(2) The check is deposited in a receiving depository institution which is staffed by individuals employed by that institution.

(3) The check is deposited with a special deposit slip which indicates it is a cashier's check, certified check, teller's check, or depository check, as the case may be.

(4) The check is deposited into an account in the name of a customer which has maintained any account with the receiving depository institution for a period of 60 days or more.

(5) The face amount of the check is for five thousand dollars ($5,000) or less.

In the case of funds deposited on any business day in an account at a depository institution by depository checks, the aggregate amount of which exceeds five thousand dollars ($5,000), this subdivision shall apply only with respect to the first five thousand dollars ($5,000) of the aggregate amount.

(b) Subdivision (a) does not apply to a depository check if the receiving depository institution reasonably believes that the check is uncollectible from the originating depository institution. For purposes of this subdivision, "reasonable cause to believe" requires the existence of facts which would cause a well-grounded belief in the mind of a reasonable person. These reasons shall include, but not be limited to, a belief that (1) the drawer or drawee of the depository check has been, or will imminently be, adjudicated a bankrupt or placed in receivership or (2) the depository check may be involved in a fraud or in a scheme commonly known as "kiting." In these situations, the depository institution electing to proceed under this subdivision shall so notify the drawer and drawee no later than the close of the next business day following deposit of the depository check.

(c) For purposes of this section the following terms have the following meaning:

(1) "Account" means any demand deposit account and any other similar transaction account at a depository institution.

(2) "Business day" means any day other than a Saturday, Sunday, or legal holiday.

(3) "Cashier's check" means any check which is subject to the following:

(A) The check is drawn on a depository institution.

(B) The check is signed by an officer or employee of the depository institution.

(C) The check is a direct obligation of the depository institution.

(4) "Certified check" means any check with respect to which a depository institution certifies the following:

(A) That the signature on the check is genuine.

(B) The depository institution has set aside funds which are equal to the amount of the check and will be used only to pay that check.

(5) "Depository check" means any cashier's check, certified check, teller's check, and any other functionally equivalent instrument, as determined by the Board of Governor's of the Federal Reserve System or the Superintendent of Banks.

(6) "Depository institution" has the meaning given in clauses (i) through (vi) of Section 19(b)(1)(A) of the Federal Reserve Act.

(7) "Teller's check" means any check issued by a depository institution and drawn on another depository institution.

(d) Except for the specific circumstances and checks described in this section, this section is not intended to restrict or preempt the regulatory authority of the Superintendent of Banks, Savings and Loan Commissioner, or Commissioner of Corporations.

(e) In the event of a suspension or modification of any similar provisions in the federal Expedited Funds Availability Act, the effect of this section shall be similarly suspended or modified.

SEC. 2. It is the intent of the Legislature that the term "account," as defined in paragraph (1) of subdivision (c) of Section 867 of the Financial Code, is not intended to, nor does it apply to, investment thrift certificate accounts of industrial loan companies.

CHAPTER 1151

An act to amend Section 1364 of the Civil Code, relating to real property.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987.]

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

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

1364. (a) Unless otherwise provided in the declaration of a common interest development, the association is responsible for repairing, replacing, or maintaining the common areas, other than exclusive use common areas, and the owner of each separate interest is responsible for maintaining that separate interest and any exclusive use common area appurtenant to the separate interest.

(b) (1) In a community apartment project, condominium project, or stock cooperative, as defined in Section 1351, unless otherwise provided in the declaration, the association is responsible for the repair and maintenance of the common area occasioned by the presence of wood-destroying pests or organisms.

(2) In a planned development as defined in Section 1351, unless a different maintenance scheme is provided in the declaration, each owner of a separate interest is responsible for the repair and

maintenance of that separate interest as may be occasioned by the presence of wood-destroying pests or organisms. Upon approval of the majority of all members of the association, the responsibility for such repair and maintenance may be delegated to the association, which shall be entitled to recover the cost thereof as a special assessment.

(c) The costs of temporary relocation during the repair and maintenance of the areas within the responsibility of the association shall be borne by the owner of the separate interest affected.

(d) (1) The association may cause the temporary, summary removal of any occupant of a common interest development for such periods and at such times as may be necessary for prompt, effective treatment of wood-destroying pests or organisms.

(2) The association shall give notice of the need to temporarily vacate a separate interest to the occupants and to the owners, not less than 15 days nor more than 30 days prior to the date of the temporary relocation. The notice shall state the reason for the temporary relocation, the date and time of the beginning of treatment, the anticipated date and time of termination of treatment, and that the occupants will be responsible for their own accommodations during the temporary relocation.

(3) Notice by the association shall be deemed complete upon either:

(A) Personal delivery of a copy of the notice to the occupants, and sending a copy of the notice to the owners, if different than the occupants, by first-class mail, postage prepaid at the most current address shown on the books of the association.

(B) By sending a copy of the notice to the occupants at the separate interest address and a copy of the notice to the owners, if different than the occupants, by first-class mail, postage prepaid, at the most current address shown on the books of the association.

(e) For purposes of this section, "occupant" means an owner, resident, guest, invitee, tenant, lessee, sublessee, or other person in possession on the separate interest.

(f) Notwithstanding the provisions of the declaration, the owner of a separate interest is entitled to reasonable access to the common areas for the purpose of maintaining the internal and external telephone wiring made part of the exclusive use common areas of a separate interest pursuant to paragraph (2) of subdivision (i) of Section 1351. The access shall be subject to the consent of the association, whose approval shall not be unreasonably withheld, and which may include the association's approval of telephone wiring upon the exterior of the common areas, and other conditions as the association determines reasonable.

CHAPTER 1152

An act to amend Sections 462, 12787.5, 12789, 12789.5, 12794.5, 12795, and 12796 of, to add Section 12788.6 to, and to repeal and add Section 12795.6 of, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 26, 1987.]

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

SECTION 1. Section 462 of the Food and Agricultural Code is amended to read:

462. The director may enter into an agreement with one or more organizations representing growers, shippers, manufacturers of agricultural commodities, nonprofit trade associations whose members market agricultural commodities, federal or state marketing order boards, and state commissions which are organized pursuant to this code, operate in California, and actively engage in the marketing of agricultural commodities, whereby research will be conducted by public or private agencies to determine methods, techniques, or criteria for agricultural commodities to qualify for entrance into foreign markets.

The agreement shall specify that the state will provide up to 50 percent of the funds necessary for the research and the other parties to the agreement will provide an amount equal to or greater than that provided by the state.

State funds shall be available for expenditure for the purposes of this section upon appropriation therefor in the Budget Act or other statute.

SEC. 2. Section 12787.5 of the Food and Agricultural Code is amended to read:

12787.5. The purpose of the program is to provide specific funds to direct research projects concerning the control of pests which pose a significant threat to the welfare of California's agricultural economy and citizenry with a predominant emphasis on developing nonchemical and, secondarily, on integrated nonchemical and chemical postharvest techniques for better pest control to further promote the export of this state's perishable agricultural commodities.

SEC. 3. Section 12788.6 is added to the Food and Agricultural Code, to read:

12788.6. The director shall give preference to research projects proposed by federal and state marketing order boards and state agricultural commissions. Approvals and priorities shall be based on the following criteria:

(a) Potential for creating, maintaining, or increasing consumption and exports of California agricultural commodities to other

countries.

(b) Commodities for which there are very limited postharvest pest control treatments.

(c) Cultural, political, environmental, and economic obstacles which restrict imports of California agricultural commodities into the markets.

(d) Potential to benefit California agriculture and provide environmental safety.

SEC. 4. Section 12789 of the Food and Agricultural Code is amended to read:

12789. The committee shall also advise the director on the availability of alternative pest control techniques and on the status of the development of alternatives to EDB and other postharvest treatments. The alternatives shall be economically, environmentally, and scientifically feasible.

SEC. 5. Section 12789.5 of the Food and Agricultural Code is amended to read:

12789.5. The committee shall consist of the following members:

(a) The director, who shall be the chairperson.

(b) One representative of the State Department of Health Services appointed by the director thereof.

(c) One representative of the Department of Industrial Relations appointed by the director thereof.

(d) One representative of the State Water Resources Control Board appointed by the board.

(e) The Chairman of the Assembly Committee on Agriculture and the Chairman of the Senate Committee on Agriculture and Water Resources, who shall participate in the activities of the committee to the extent that the participation is not incompatible with their duties as Members of the Legislature.

(f) One member appointed by the Speaker of the Assembly and one member appointed by the Senate Committee on Rules, both of whom have experience in the area of agricultural pesticides.

(g) Two members from the University of California appointed by the President of the University of California, at least one of whom is from the Cooperative Extension Service.

(h) One member appointed by the Chancellor of the California State University.

(i) Nine members appointed by the director, each of whom has experience in the postharvest storage and handling of perishable agricultural commodities.

SEC. 6. Section 12794.5 of the Food and Agricultural Code is amended to read:

12794.5. The committee shall prepare an annual report of the research projects proposed, approved contracts awarded, the status of ongoing research projects, and findings achieved from completed research projects. The committee shall also report on its progress in developing alternatives to EDB and other postharvest treatments. The report shall be submitted annually not later than February 1 to

the director and the Legislature.

SEC. 7. Section 12795 of the Food and Agricultural Code is amended to read:

12795. The development and availability of alternatives to EDB and other postharvest treatments shall be submitted in a final report to the director and the Legislature, as soon as practicable, but not later than December 31, 1992.

SEC. 8. Section 12795.6 of the Food and Agricultural Code is repealed.

SEC. 9. Section 12795.6 is added to the Food and Agricultural Code, to read:

12795.6. It is the intent of the Legislature that sufficient funds, not to exceed two hundred fifty thousand dollars ($250,000), be appropriated from the Agricultural Pest Control Research Account annually, through the 1991–92 fiscal year, to the department to enable it to continue to contract for research conducted pursuant to this article and Section 462.

SEC. 10. Section 12796 of the Food and Agricultural Code is amended to read:

12796. This article shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

CHAPTER 1153

An act to add Section 1428.2 to the Health and Safety Code, relating to health facilities.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987.]

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

SECTION 1. Section 1428.2 is added to the Health and Safety Code, to read:

1428.2. In the case of a class "A" or class "AA" citation issued to a long-term health care facility which is appealed, the citation shall expire and have no further legal effect, if the Attorney General has not filed an action in the court of competent jurisdiction, within one year from the date the facility notifies the State Department of Health Services of its intent to contest the citation in court. Notwithstanding the time limit prescribed in subdivision (a) of Section 1428, at the facility's request, the department shall conduct a citation review conference within 35 days from the date of the request for a citation review conference. Unless a conference is requested by the facility, this section shall not require the department to conduct the conference within the 35-day period. The hearing officer shall issue the decision within 30 days of the citation review conference.

CHAPTER 1154

An act to add Sections 17740.6, 17740.7, 17740.8, 17740.9, and 17741.8 to the Education Code, relating to school construction, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) Many areas of the state now face a desperate need for new neighborhood school facilities to relieve the severe overcrowding resulting from tremendous pupil population growth. Since the most crowded schools are often located in densely populated areas with little or no vacant or underdeveloped land available for new schools or additions to existing schools, locating new school projects often results in the dislocation and disruption of the very communities the new facilities are designed to serve.

(b) The purpose of this act is to encourage school districts to balance the need for new school facilities with the difficulties caused by taking large sites in highly populated areas by offering incentives to school districts to acquire sites that are substantially smaller than those currently provided for under existing state guidelines. These incentives would do all of the following:

(1) Provide sufficient resources to allow multistory or other designs for facilities that would reduce the size of a site and thereby reduce the number of local residents displaced, while ensuring that the new school facilities constructed thereon will be equivalent to those constructed other than pursuant to this act.

(2) Allow school districts reasonable regulatory and fiscal flexibility so they can take advantage of the provisions of this act without delaying the construction of new facilities.

(3) Ensure that the long-term costs of this act do not impose any additional fiscal burden on the state by funding the payments provided for in this act from the savings generated by reducing the size of the sites that would need to be purchased with state funds.

(4) Ensure that the State Allocation Board exercises reasonable regulatory discretion in the interpretation and application of the projects built under the provisions of this act.

SEC. 2. Section 17740.6 is added to the Education Code, to read:

17740.6. (a) For any school of two or more stories, the project funding provided under this chapter shall include, at the request of the applicant district, the costs of any or all of the following:

(1) Compliance with applicable requirements of law for fire

safety, and for handicapped access, as a result of the multistory design.

(2) Playground apparatus.

(3) Duct shafts, utility tunnels, and pipe conduit chases.

(4) Security items required as a result of the multistory design.

(b) In calculating the maximum project funding that may be allocated for parking, landscaping, and other general school site improvements, which calculation is determined in proportion to the total building cost or area approved for funding under the project, the total building cost or area approved for funding under the project shall be computed by the board to include any increase in project building area, as authorized under Section 17741.8. The applicant district shall provide the board information on how the supplemental project funding will be allocated to relieve the effects resulting from less than the specified land area for the school site.

(c) This section shall apply to any application for project funding under this chapter for which the final apportionment for construction of the project had not been made on or prior to December 1, 1987.

(d) For any project approved under this chapter, the amount of project funding granted by the board shall include the actual and reasonable costs incurred by any applicant district for the revision of its project application for the purpose of qualifying for supplemental project funding as authorized by this section.

SEC. 3. Section 17740.7 is added to the Education Code, to read:

17740.7. Notwithstanding any other provision of this article, the board shall provide that building area for enclosed hallways in the second or higher story of any building shall be counted as two-thirds of the actual area. For purposes of this section "enclosed hallways" includes, but is not limited to, all of the following:

(a) Covered passages, arcades, shelters, porches, and planting areas.

(b) Enclosed covered areas that provide shelter between buildings that are 20 feet or more apart.

(c) Sun control devices designed and located to function in lieu of covered walks or other shelters.

(d) Mezzanines used for storage purposes.

SEC. 4. Section 17740.8 is added to the Education Code, to read:

17740.8. Where an applicant district that is eligible under this chapter for project funding of new construction of school facilities on an existing school site, which site has less than 50 percent of the land recommended under State Department of Education guidelines, as published in the School Site Analysis and Development Handbook in effect on January 1, 1987, the area of allowable new building construction for that project shall be increased by the square footage of any existing one-story school facility or facilities to be replaced under the project by one or more multistory school facilities.

SEC. 5. Section 17740.9 is added to the Education Code, to read:

17740.9. (a) (1) The board shall allocate the amount calculated

under subdivision (b), in addition to any other project funding authorized under this chapter, to each project funded under this chapter for which the resulting pupil density will exceed the following:

(A) For a project for kindergarten or any of the grades 1 to 6, inclusive, 90 pupils per acre.

(B) For a project for a junior high school project, 80 pupils per acre.

(C) For a project for a senior high school project, 70 pupils per acre.

(2) For any new construction project, pupil density shall be computed, for purposes of paragraph (1), by dividing the number of units of estimated average daily attendance for the project, including those to be served by relocatable structures, by the acreage of the project site.

(3) For any project for the construction of additional facility space on an existing school site or on land acquired that is adjacent to an existing school site, pupil density shall be computed, for purposes of paragraph (1), by adding the number of units of estimated average daily attendance for the project to the number of units of average daily attendance for the existing school facilities, and dividing that sum by the total site acreage for the project and the existing school facilities.

(b) The supplemental project funding authorized under this section shall be calculated by dividing the actual pupil density for the project, as calculated under subdivision (a), by the threshold pupil density for the project as set forth in that subdivision, and multiplying the resulting fraction by an amount equal to the average cost per acre of the land approved for acquisition by the board under this chapter for the project, or that would have been approved for acquisition if the applicant school district had not had an existing school site available for the project.

SEC. 6. Section 17741.8 is added to the Education Code, to read:

17741.8. (a) Notwithstanding any other provision of law, any applicant school district that receives supplemental project funding under Sections 17740.6, 17740.7, 17740.8, and 17741.8 shall apply that funding to the purposes of the project funded, in compliance with any requirements set forth in those sections, but need not comply in that regard with the allowable building area of that project as otherwise calculated under this chapter. The expenditure of the supplemental project funds authorized under those sections is exempt from the total building cost standards applicable to the project. In addition, the increase in building area authorized under this subdivision is exempt, for purposes of any subsequent application for project funding under this chapter, from the calculation of existing adequate school construction of the district.

(b) Notwithstanding any other provision of law, the total amount of supplemental project funding that an applicant district is entitled to receive under Sections 17740.6, 17740.7, 17740.8, and 17740.9 may

not exceed the lesser of the following:

(1) An amount equal to that calculated under subdivision (b) of Section 17740.9.

(2) An amount equal to the sum of four thousand dollars ($4,000) for each of the first 500 units of estimated average daily attendance for the project, and two thousand dollars ($2,000) for each additional unit of estimated average daily attendance. The monetary rates set forth in this paragraph shall be increased annually for inflation for the prior calendar year on the basis of the cost index for class B construction as determined in the January meeting of the board.

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 assist school districts to meet the need for additional school facilities as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 1155

An act to amend Section 1203 of the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987.]

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

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

(a) That it is the right of every person to be secure and protected from the terrorizing activities of violent individuals.

(b) That the freedom of law-abiding persons to travel upon California's public highways and freeways without fear of intimidation, unreasonable restriction, and endangerment of their own personal safety from violent acts is a basic human right that must be upheld and protected.

(c) That a safe and secure highway and freeway system is a vital component in the continuance of California's strong economic life and provides the primary means on which millions of Californians depend to travel to and from their workplaces and on which millions of visitors to California depend to travel to those places of interest which have drawn them to our state.

(d) That, in the summer of 1987, the frequency of violent assaults upon law-abiding motorists on California's public highways and freeways has increased significantly so that, in a two-month period between mid-June and mid-August of 1987, there were close to 60 incidents of violence on our highways and freeways, in which four

people were killed, 19 people injured, and hundreds more were placed in mortal danger.

(e) That these violent incidents of terror, in many cases, are designed to intimidate, not just specific motorists who somehow gain the ire of these assailants, but the general driving public as well.

(f) That these acts of terror can and do disrupt the safe operation of the public highway and freeway system and endanger not only the lives of intended victims but the lives of other innocent motorists and bystanders when panic strikes the immediate area.

(g) That the potential for great bodily injury and death goes far beyond the immediate action, since the behavior of the assailant and the reactions of terrorized motorists can lead to mass confusion and traffic calamities.

(h) That these freeway terrorists must be adequately punished for the crime they commit against not only innocent individuals but the safety and well-being of the entire motoring public; and that California's highways and freeways must be ridded of this violent element.

SEC. 2. Section 1203 of the Penal Code, as amended by Chapter 134 of the Statutes of 1987, 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.

(10) Any person who, in the commission of a felony, inflicts great bodily injury or causes the death of a human being by the discharge of a firearm from or at an occupied motor vehicle proceeding on a public street or highway.

(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. 3. Section 1203 of the Penal Code, as amended by Chapter 134 of the Statutes of 1987, 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 attorneys at least five days, or upon request of the defendant or prosecuting attorney, 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, 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, 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.

(10) Any person who, in the commission of a felony, inflicts great bodily injury or causes the death of a human being by the discharge of a firearm from or at an occupied motor vehicle proceeding on a public street or highway.

(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 3 of this bill incorporates amendments to Section 1203 of the Penal Code proposed by both this bill and SB 582. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1988, but this bill becomes operative first, (2) each bill amends Section 1203 of the Penal Code, and (3) this bill is enacted after SB 582, in which case Section 1203 of the Penal Code, as amended by Section 2 of this bill, shall remain operative only until the operative date of SB 582, at which time Section 3 of this bill shall become operative.

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

In order to make the terrorizing of motorists or other persons on this state's public streets and highways a felony offense and in order to deter persons from violent actions upon our public streets and highways, it is necessary that this act take effect immediately.

CHAPTER 1156

An act to add Article 6.3 (commencing with Section 25368) to Chapter 6.8 of Division 20 of the Health and Safety Code, relating to hazardous substances.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987.]

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 technologies in existence today which can provide permanent remedies to our hazardous substance cleanup problems. However, for most of these technologies, cost and performance information is incomplete, thus hindering their routine use at remedial action sites.

(b) It is therefore, the intent of the Legislature in enacting this act, to establish a full-scale demonstration and evaluation of alternative technologies, with the primary objective of establishing reliable cost and performance data for site cleanup, thereby enhancing the commercial utilization of these technologies at hazardous substance release sites as alternatives to the containment systems presently in use.

(c) The Legislature further declares that it is the policy of this state to select likely cost-effective, permanent remedies to hazardous substance release sites to the maximum extent possible in an effort to achieve more permanent protection of human health and the environment.

SEC. 2. Article 6.3 (commencing with Section 25368) is added to Chapter 6.8 of Division 20 of the Health and Safety Code, to read:

Article 6.3. Technology Demonstration Program

25368. Notwithstanding Section 25355.5, the department shall carry out a program of full-scale demonstrations to evaluate treatment technologies that can be safely utilized for removal and remedial actions to hazardous substance releases.

25368.1. For the purposes of this article, the following definitions apply:

(a) "Treatment technologies" means methods, techniques, or processes, including proprietary or patented methods, which permanently alter the composition of hazardous substances at hazardous substance release sites through chemical, biological, or physical means so as to make the substances nonhazardous or to significantly reduce the toxicity, mobility, or volume, or any combination thereof, of the hazardous substances or contaminated materials being treated.

(b) "Full-scale demonstration" means a demonstration of a technology which is of a size or capacity which permits valid comparison of the technology to the technical performance and cost of conventional technologies, which is likely to be cost-effective, and which will result in a substantial or complete remedial or removal action to a hazardous substance release site.

25368.2. The department shall select technology demonstration projects to be evaluated pursuant to this article using criteria which include, at a minimum, all of the following requirements:

(a) The project proposal includes complete and adequate documentation of technical feasibility.

(b) The project proposal includes evidence that a technology has been sufficiently developed for full-scale demonstration and can likely operate on a cost-effective basis.

(c) The department has determined that a site is available and suitable for demonstrating the technology or technologies, taking into account the physical, biological, chemical, and geological characteristics of the site, the extent and type of contamination found at the site, and the capability to conduct demonstration projects in a manner to ensure the protection of human health and the environment.

(d) The technology to be demonstrated preferably has widespread applicability in removal and remedial actions at other sites in the state.

(e) The project will be developed to the extent that a successful demonstration on a hazardous substance release site may lead to commercial utilization by responsible parties at other sites in the state.

(f) The department has determined that adequate funding is available from one or more of the following sources:

(1) Responsible parties.

(2) The Environmental Protection Agency.

(3) The Hazardous Substance Cleanup Fund.

(4) The state account.

25368.3. On or before July 1, 1988, the department shall identify hazardous substance release sites, listed pursuant to paragraph (2) or (3) of subdivision (b) of Section 25356, that are particularly well-suited for technology demonstration projects. In identifying hazardous substance release sites, the department shall consider, at a minimum, all of the following:

(a) The state's priority ranking for removal and remedial actions to hazardous substance release sites adopted pursuant to Section 25356.

(b) The volume and variability of the hazardous substance release at the site.

(c) The availability of data characterizing the hazardous substance release.

(d) The accessibility of the hazardous substance release.

(e) Availability of required utilities.

(f) Support of federal and local governments.

(g) Potential for adverse effects to public health and the environment.

25368.4. (a) On or before July 1, 1988, and at least once every 12 months thereafter, the department shall publish a solicitation for proposals to conduct treatment demonstration projects which utilize technologies which are at a stage of development suitable for full-scale demonstrations at hazardous substance release sites. The solicitation notice shall prescribe information to be included in the

proposal, including technical and economic data derived from the applicant's own research and development efforts, and any other information which may be prescribed by the department to assess the technology's potential and safety and the types of removal or remedial action to which it may be applicable.

(b) Any person and private or public entity may submit an application to the department in response to the solicitation. The application shall contain a proposed treatment demonstration plan setting forth how the treatment demonstration project is to be carried out and any other information which the department may require.

25368.5. (a) On or before January 1, 1989, after reviewing all proposals submitted pursuant to Section 25368.4, the department shall select three treatment demonstration projects, to be commenced during 1989, using, at a minimum, the criteria specified in Section 25368.2. Each year thereafter the department shall commence a minimum of two projects.

(b) If the department determines that the required number of demonstrations required by subdivision (a) cannot be initiated consistent with the criteria specified in Section 25368.2 in any fiscal year, the department shall inform the appropriate committees of the Legislature of the reasons for its inability to conduct these demonstration projects.

(c) Each treatment demonstration project selected pursuant to this section shall be performed by the applicant, or by a person approved by the applicant and the department.

25368.6. Notwithstanding Section 25360, if the department determines that using an alternative treatment technology to conduct a removal or remedial action would be more costly than another available and feasible removal or remedial action method that would also achieve satisfactory results, the department may determine not to attempt to recover from the liable person the incremental costs of the removal or remedial action attributable to the alternative treatment technology.

25368.7. The department shall conduct a technology transfer program which shall include the development, collection, evaluation, coordination, and dissemination of information relating to the utilization of alternative or innovative hazardous waste treatment technologies demonstrated pursuant to this article. The information shall include an evaluation of each treatment demonstration project's efficacy relating to performance and cost in achieving permanent and significant reduction in risks from hazardous substance releases. The information shall also include documentation of the testing procedures utilized in the project, the data collected, and the quality assurance and quality control which was conducted. The information shall also include the technology's applicability, pretreatment and posttreatment measurements, and the technology's advantages or disadvantages compared to other available technologies.

25368.8. Notwithstanding paragraph (5) of subdivision (c) of Section 25356.1, when preparing or approving a remedial action plan for a treatment demonstration project selected pursuant to this article, the department shall consider the cost effectiveness of the project but is not required to choose the most cost-effective measure.

CHAPTER 1157

An act to amend Item 2720-011-044 of Section 2.00 of the Budget Act of 1987, relating to crimes, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 26, 1987.]

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

SECTION 1. The Commissioner of the California Highway Patrol shall assign additional traffic officers to those counties which are experiencing the greatest level of freeway violence. The commissioner shall immediately hire 150 traffic officers and 30 support personnel for the purpose of addressing the recent incidents of freeway violence.

SEC. 2. Item 2720-011-044 of Section 2.00 of the Budget Act of 1987 is amended to read:

2720-011-044—For payments of deficiencies in appropriations for the Department of the California Highway Patrol, Program 97 Unallocated, which may be authorized by the Director of Finance, with the consent of the Governor, payable from the Motor Vehicle Account, State Transportation Fund .. (4,000,000)

Provisions:

1. The Director of Finance shall report allocations from this item in the same manner as required for reporting allocations from Item 9840-001-494 of this act.

SEC. 3. The sum of seven million, three hundred thousand dollars ($7,300,000) is hereby appropriated from the Motor Vehicle Account in the State Transportation Fund to the Department of the California Highway Patrol for the costs of hiring an additional 150 traffic officers, 30 support staff, and necessary equipment.

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 increase the number of uniformed officers on patrol

and to enhance the California Highway Patrol's capability in meeting the needs of the motoring public, it is necessary that this bill take effect immediately.

CHAPTER 1158

An act to amend Sections 1463.14 and 1463.16 of the Penal Code, relating to crimes.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987]

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

SECTION 1. Section 1463.14 of the Penal Code is amended to read:

1463.14. (a) Notwithstanding the provisions of Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, fifty dollars ($50) for each conviction of a violation of Section 23103, 23104, 23152, or 23153 of the Vehicle Code shall be deposited in a special account which shall be used exclusively to pay for the cost of performing for the county, or a city within the county, analysis of blood, breath or urine for alcohol content or for the presence of drugs, or for services related to that testing. The sum shall not exceed the reasonable cost of providing the services for which the sum is intended.

On November 1 of each year, the treasurer of each county shall determine those moneys in the special account which were not expended during the preceding fiscal year, and shall transfer those moneys into the general fund of the county. The county may retain an amount of that money equal to its administrative cost incurred pursuant to this section, and shall distribute the remainder pursuant to Section 1463.

(b) The Board of Supervisors of Contra Costa County may, by resolution, authorize the imposition of a fifty dollar ($50) assessment by the court upon each defendant convicted of a violation of Section 23152 or 23153 of the Vehicle Code for deposit in the account from which the fifty dollar ($50) distribution specified in subdivision (a) is deducted.

(c) The Department of Justice shall promulgate rules and regulations to implement the provisions of this section.

SEC. 2. Section 1463.16 of the Penal Code is amended to read:

1463.16. (a) Notwithstanding Section 1203.1 or 1463, fifty dollars ($50) of each fine for each conviction of a violation of Section 23103, 23104, 23152, or 23153 of the Vehicle Code shall be deposited with the county treasurer in a special account for exclusive allocation by the county for the county's alcoholism program, with approval of the board of supervisors, for alcohol programs and services for the

general population. These funds shall be allocated through the local planning process pursuant to specific provision in the county alcohol program plan which is submitted to the State Department of Alcohol and Drug Programs. Programs shall be certified by the Department of Alcohol and Drug Programs or have made application for certification to be eligible for funding under this section. The county shall implement the intent and procedures of subdivision (b) of Section 11812 of the Health and Safety Code while distributing funds under this section.

(b) In a county of the first, second, third, or fifteenth class, notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, fifty dollars ($50) for each conviction of a violation of Section 23103, 23104, 23152, or 23153 of the Vehicle Code shall be deposited in a special account for exclusive allocation by the administrator of the county's alcoholism program, with approval of the board of supervisors, for alcohol programs and services for the general population. These funds shall be allocated through the local planning process pursuant to a specific provision in the county plan which is submitted to the State Department of Alcohol and Drug Programs. For those services for which standards have been developed and certification is available, programs shall be certified by the State Department of Alcohol and Drug Programs or shall apply for certification to be eligible for funding under this section. The county alcohol administrator shall implement the intent and procedures of subdivision (b) of Section 11812 of the Health and Safety Code while distributing funds under this section.

(c) The Board of Supervisors of Contra Costa County may, by resolution, authorize the imposition of a fifty dollar ($50) assessment by the court upon each defendant convicted of a violation of Section 23152 or 23153 of the Vehicle Code for deposit in the account from which the fifty dollar ($50) distribution specified in subdivision (a) is deducted.

(d) It is the specific intent of the Legislature that funds expended under this part shall be used for ongoing alcoholism program services as well as for contracts with private nonprofit organizations to upgrade facilities to meet state certification and state licensing standards and federal nondiscrimination regulations relating to accessibility for handicapped persons.

(e) Counties may retain up to 5 percent of the funds collected to offset administrative costs of collection and disbursement.

CHAPTER 1159

An act to amend Section 12022.5 of the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987.]

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

SECTION 1. Section 12022.5 of the Penal Code is amended to read:

12022.5. (a) Any person who personally uses a firearm in the commission or attempted commission of a felony shall, upon conviction of such felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of imprisonment in the state prison for two years, unless use of a firearm is an element of the offense of which he or she was convicted.

(b) Notwithstanding subdivision (a), any person who is convicted of a felony or an attempt to commit a felony, including murder or attempted murder, in which that person discharged a firearm at an occupied motor vehicle which caused great bodily injury or death to the person of another, shall, upon conviction of that felony or attempted felony, in addition and consecutive to the sentence prescribed for the felony or attempted felony, be punished by an additional term of imprisonment in the state prison for five years.

(c) The additional term provided by this section may be imposed in cases of assault with a firearm under paragraph (2) of subdivision (a) of Section 245, or assault with a deadly weapon which is a firearm under Section 245.

(d) When a person is found to have personally used a firearm in the commission or attempted commission of a felony as provided in this section and the firearm is owned by that person, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Section 12028.

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

In order to make the shooting at motorists on this state's public streets and highways a severely punishable offense and in order to deter persons from violent actions upon our public streets and highways, it is necessary that this act take effect immediately.

CHAPTER 1160

An act to amend Section 926.17 of the Government Code, relating to state agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 26, 1987.]

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

SECTION 1. Section 926.17 of the Government Code is amended to read:

926.17. (a) (1) A state agency which acquires property or services pursuant to a contract, including any approved change order, with a business shall pay for each complete delivered item of property or service on the date required by contract between the business and agency or be subject to an interest penalty fee. If no date for payment is specified by contract, the state agency shall pay the contractor directly, if authorized to do so, within 50 calendar days after the postmark date of the invoice . If the state agency is not authorized to pay the contractor directly, the state agency shall forward the invoice for payment to the Controller within 35 calendar days after the postmark date of the invoice. The Controller shall pay the contractor within 15 calendar days of receipt of the invoice from the state agency.

(2) If, due to insufficient funds, a state agency is unable to meet the payment deadlines provided for in paragraph (1) under a contract for goods or services needed due to a natural disaster, including, but not limited to, fires, floods, or earthquakes, payment under the contract shall not be due until 30 calendar days after the agency has received sufficient funds to pay the contractor.

(3) If, by applying paragraphs (1) and (2), a payment under a contract with the Department of Forestry would become due during the annually declared fire season, as declared by the Director of Forestry, the payment shall not be due until 30 calendar days after the date upon which it would otherwise have been due.

(4) The acquisition of property includes the rental of real or personal property.

(b) (1) An interest penalty fee shall accrue and be charged on payments overdue under subdivision (a) at a rate of 1 percent above the rate accrued on June 30th of the prior year by the Pooled Money Investment Account, but not to exceed 15 percent.

The interest penalty fee shall begin on the day after payment is due if the payment due date is specified by contract. If no payment date is specified by contract and the state agency is authorized to pay the contractor directly, the interest penalty fee shall begin to accrue on the 51st calendar day after the postmark date of the invoice and shall be paid for out of the contracting state agency's funds.

If no payment date is specified by contract and the state agency is not authorized to pay the contractor directly and the state agency has not forwarded the invoice to the Controller's office for payment by the 35th calendar day after the postmark date of the invoice, an interest penalty fee shall begin to accrue on the 36th calendar day after the postmark date of the invoice and shall be paid for out of the contracting state agency's funds. The state agency's liability ends on the date a properly submitted invoice is received by the Controller.

After the invoice is forwarded to the Controller's office from the contracting state agency, an interest penalty fee shall begin to accrue on the 16th calendar day after receipt of a properly submitted invoice by the Controller's office and shall be paid for out of the Controller's funds. The interest penalty fee ceases to accrue on the date full payment is made.

(2) A state agency shall not seek additional appropriations to pay interest which accrues as a result of an agency's failure to make payments as required by subdivision (a).

(3) When a state agency is required by this section to pay a penalty, it shall be presumed that the fault is that of the head of the state agency and, in such cases, the head of the state agency shall submit to the Legislature a written report on the actions taken to correct the problem.

(c) A court shall award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to this section where it is found that the state agency has violated this section. The costs and fees shall be paid by the state agency at fault and shall not become a personal economic liability of any public officer or employee thereof.

(d) If the state agency's failure to make payment as required by subdivision (a) is the result of a dispute between the agency and the business over the amount due or over compliance with the contract, the 35 and 50 calendar days specified in subdivision (a) shall begin on the date the dispute is settled either by mutual agreement between the contracting parties or by receipt of a corrected invoice. A state agency may dispute an invoice if the state agency so notifies the contractor within 15 calendar days of receipt of the invoice.

(e) For the purposes of this section, "invoice" means a document seeking payment on a contract and which contains a detailed list of goods shipped or services rendered, with an accounting of all costs.

(f) This section shall not apply to claims for reimbursement for health care services provided under the Medi-Cal program, as established pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(g) Section 926.10 shall not apply to any contract covered by this section.

(h) This section shall not apply to any contract covered by Section 926.15.

(i) A state agency shall not make interest penalty fee payments of less than five dollars ($5).

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 welfare of the people of the State of California depends, in part, on the ability of state agencies to contract for the purchase of goods and services. Section 926.17, previously added to the Government Code, would help maintain the integrity of the state's promises and thus its ability to attract and maintain contractual relationships. In order to correct inconsistencies which hinder the proper implementation of Section 926.17 and to prevent the assessment of unfair penalties against state agencies, it is necessary for this act to take effect immediately.

CHAPTER 1161

An act to amend Sections 1420 and 1428 of the Health and Safety Code, and to amend Section 14018.4 of the Welfare and Institutions Code, relating to health facilities.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 26, 1987.]

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

SECTION 1. Section 1420 of the Health and Safety Code is amended to read:

1420. (a) Upon receipt of a complaint, the state department shall assign an inspector to make a preliminary review of the complaint and shall notify the complainant of the name of the inspector. Unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection or investigation within 10 working days of the receipt of the complaint. In either event, the complainant shall be promptly informed of the state department's proposed course of action. Upon the request of either the complainant or the state department, the complainant or his or her representative, or both, may be allowed to accompany the inspector to the site of the alleged violations during his or her tour of the facility, unless the inspector determines that the privacy of any patient would be violated thereby.

When conducting an onsite inspection or investigation pursuant to this section, the state department shall collect and evaluate all available evidence and may issue a citation based upon, but not limited to, all of the following:

(1) Observed conditions.

(2) Statements of witnesses.

(3) Facility records.

(b) Upon being notified of the state department's determination as a result of the inspection or investigation, a complainant who is dissatisfied with the state department's determination, regarding a matter which would pose a threat to the health, safety, security, welfare, or rights of a resident, shall be notified by the state department of the right to an informal conference, as set forth in this section. The complainant may, within five business days after receipt of the notice, notify the director in writing of his or her request for an informal conference. The informal conference shall be held with the designee of the director for the county in which the long-term health care facility which is the subject of the complaint is located. The long-term health care facility may participate as a party in this informal conference. The director's designee shall notify the complainant and licensee of his or her determination within 10 working days after the informal conference and shall apprise the complainant and licensee in writing of the appeal rights provided in subdivision (c).

(c) If the complainant is dissatisfied with the determination of the director's designee in the county in which the facility is located, the complainant may, within 15 days after receipt of this determination, notify in writing the Deputy Director of the Licensing and Certification Division of the state department, who shall assign the request to a representative of the Complainant Appeals Unit for review of the facts that led to both determinations. As a part of the Complainant Appeals Unit's independent investigation, and at the request of the complainant, the representative shall interview the complainant in the district office where the complaint was initially referred. Based upon this review, the Deputy Director of the Licensing and Certification Division of the state department shall make his or her own determination and notify the complainant and the facility within 30 days.

(d) Any citation issued as a result of a conference or review provided for in subdivision (b) or (c) shall be issued and served upon the facility within three days of the final determination, excluding Saturday, Sunday, and holidays, unless the licensee agrees in writing to an extension of this time. Service shall be effected either personally or by registered or certified mail. A copy of the citation shall also be sent to each complainant.

SEC. 2. Section 1428 of the Health and Safety Code is amended to read:

1428. (a) If a licensee desires to contest a class "AA" or a class "A" citation, or a citation alleging a class "B" violation and either a class "AA" or class "A" violation or the proposed assessment of a civil penalty therefor, the licensee shall within five business days after service of the citation notify the director in writing of his or her request for a citation review conference with the designee of the director for the county in which the cited long-term health care facility is located. The director's designee shall hold, within five business days from the receipt of the request, a citation review

conference, at the conclusion of which he or she may affirm, modify, or dismiss the citation or proposed assessment of a civil penalty. If the director's designee affirms, modifies, or dismisses the citation or proposed assessment of a civil penalty, he or she shall state with particularity in writing his or her reasons for that action, and shall immediately transmit a copy thereof to each party to the original complaint. If the licensee desires to contest a decision made after the citation review conference, the licensee shall inform the director in writing within five business days after he or she receives the decision by the director's designee. If the licensee fails to notify the director in writing that he or she intends to contest the citation or the proposed assessment of a civil penalty therefor or the decision made by a director's designee after a citation review conference within the time specified in this subdivision, the citation or the proposed assessment of a civil penalty or the decision by a director's designee after a citation review conference shall be deemed a final order of the state department and shall not be subject to further administrative review.

(b) If a licensee notifies the director that he or she intends to contest a class "AA" or a class "A" citation, or a citation alleging a class "B" violation and either a class "AA" or class "A" violation, the director shall immediately notify the Attorney General. Upon notification, the Attorney General shall promptly take all appropriate action to enforce the citation and recover the civil penalty prescribed thereon, and shall take such other action as the Attorney General shall deem appropriate, in the court of competent jurisdiction for the county in which the long-term health care facility is located.

(c) If a licensee desires to contest a class "B" citation or the proposed assessment of a civil penalty therefor, the licensee shall within five business days after service of the citation (1) notify the director in writing of his or her request for a citation review conference with the designee of the director for the county in which the cited long-term health care facility is located; or (2) notify the director in writing of the licensee's intent to adjudicate the validity of the citation in the municipal court in the county in which the long-term health care facility is located. If requested by the licensee, the director's designee shall hold, within five business days from the receipt of the request, a citation review conference, at the conclusion of which he or she may affirm, modify, or dismiss the citation or the proposed assessment of a civil penalty. If the director's designee affirms, modifies, or dismisses the citation or proposed assessment of a civil penalty, he or she shall state with particularity in writing his or her reasons for that action and shall immediately transmit a copy thereof to each party to the original complaint. If the licensee desires to contest a decision made after the citation review conference, the licensee shall inform the director in writing within five business days after he or she receives the decision by the director's designee. In order to perfect a judicial appeal of a contested citation, a licensee

shall file a civil action in the municipal court in the county in which the long-term health care facility is located. The action shall be filed no later than 60 calendar days after a licensee notifies the director that he or she intends to contest a citation, or, in the event a citation review conference is held, no later than 60 calendar days after a licensee notifies the director of his or her intent to contest the decision of the director's designee. If a judicial appeal is prosecuted under the provisions of this subdivision, the state department shall have the burden of establishing by a preponderance of the evidence that (1) the alleged violation did occur, (2) the alleged violation met the criteria for the class of citation alleged, and (3) the assessed penalty was appropriate. The state department shall also have the burden of establishing by a preponderance of the evidence that the assessment of a civil penalty should be upheld. If a licensee fails to notify the director in writing that he or she intends to contest the citation or the decision made by the director's designee within the time specified in this subdivision, or fails to file a civil action within the time specified in this subdivision, the citation or the decision by the director's designee after a citation review conference shall be deemed a final order of the state department and shall not be subject to further administrative review. If a licensee prosecutes a judicial appeal of a contested citation or the assessment of a civil penalty, no civil penalty shall be due and payable unless and until the appeal is terminated in favor of the state department.

(d) The director or the director's designee shall establish an independent unit of trained citation review conference hearing officers within the state department to conduct citation review conferences. Citation review conference hearing officers shall be directly responsible to the deputy director for licensing and certification, and shall not be concurrently employed as supervisors, district administrators, or regional administrators with the licensing and certification division. Specific training shall be provided to members of this unit on conducting an informal conference, with emphasis on the regulatory and legal aspects of long-term health care.

Where the state department issues a citation as a result of a complaint or regular inspection visit, and a resident or residents are specifically identified in a citation by name as being specifically affected by the violation, then the following persons may attend the citation review conference:

(1) The complainant and his or her designated representative.

(2) A personal health care provider, designated by the resident.

(3) A personal attorney, only if the long-term health care facility has an attorney present.

(4) Any person representing the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code.

Where the state department determines that residents in the facility were threatened by the cited violation but does not name

specific residents, any person representing the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, and a representative of the residents or family council at the facility may participate to represent all residents. In this case, these representatives shall be the sole participants for the residents in the conference. The residents' council shall designate which representative will participate.

The complainant, affected resident, or their designated representatives shall be notified by the state department of the conference and their right to participate. The director's designee shall notify the complainant or his or her designated representative and the affected resident or his or her designated representative, of his or her determination based on the citation review conference.

(e) In assessing the civil penalty for a violation, all relevant facts shall be considered, including, but not limited to, all of the following:

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

(2) The patient's medical condition.

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

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

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

(f) Except as otherwise provided in this subdivision, an assessment of civil penalties for a class "A" or class "B" violation shall be trebled and collected for a second or subsequent violation occurring within any 12-month period, if a citation was issued and a civil penalty assessed for the previous violation occurring within the period, without regard to whether the action to enforce the previous citation has become final. However, the increment to the civil penalty required by this subdivision shall not be due and payable unless and until the previous action has terminated in favor of the state department.

If the class "B" violation is a patient's rights violation, as defined in subdivision (d) of Section 1424, it shall not be trebled unless the state department determines the violation has a direct or immediate relationship to the health, safety, security, or welfare of long-term health care facility residents.

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

(h) Actions brought under the provisions of this chapter shall be set for trial at the earliest possible date and shall take precedence on the court calendar over all other cases except matters to which equal or superior precedence is specifically granted by law. Times for responsive pleading and for hearing any such proceeding shall be set by the judge of the court with the object of securing a decision as to subject matters at the earliest possible time.

(i) If the citation is dismissed or reduced, the state department shall take action immediately to ensure that the public records reflect in a prominent manner that the citation was dismissed or reduced.

(j) Upon a licensee notifying the director of its intent to contest one or more citations or decisions made following a citation review conference where the total penalties do not exceed fifteen thousand dollars ($15,000), either the state or the licensee may elect to submit the matter to binding arbitration. The parties shall agree upon an arbitrator designated from the American Arbitration Association in accordance with the association's established rules and procedures. The arbitration hearing shall be set within 45 days of the petitioner's election, but in no event less than 28 days from the date of selection of an arbitrator. The arbitration hearing may be continued up to 15 additional days if necessary at the arbitrator's discretion. The arbitrator's decision shall specify, in writing, the areas of disagreement between the parties, the evidence upon which the decision is based, and the reasons for the decision. The decision of the arbitrator shall be based upon substantive law and shall be binding on all parties, subject to judicial review. This review shall be limited to whether there was substantial evidence to support the decision of the arbitrator.

The arbitrator shall determine which of the parties are financially liable for arbitration costs based upon the position each took at the commencement of the arbitration proceedings compared to the decision of the arbitrator.

The retention of, renewal of, or application for, a license to operate a skilled nursing facility or intermediate care facility shall, for purposes of the administration of this chapter, be deemed a written agreement to arbitrate contested citations within the meaning of Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure. Without extending the time for commencement of these hearings, the provisions of Section 1283.05 of the Code of Civil Procedure shall be applicable to all proceedings to arbitrate citations issued pursuant to this chapter, except that depositions may be noticed and taken without prior approval of the arbitrator.

Penalties paid on violations under this chapter shall be applied against the state department's accounts to offset any costs incurred by the state pursuant to this subdivision. Any costs or penalties assessed pursuant to this chapter shall be paid within 30 days of the date the decision becomes final. If a facility does not comply with this provision, the state department shall withhold any payment under the Medi-Cal program until the debt is satisfied. No payment shall be withheld if the state department determines that it would cause undue hardship to the facility or to patients of the facility.

SEC. 2.5. Section 1428 of the Health and Safety Code is amended to read:

1428. (a) If a licensee desires to contest a class "AA" or a class "A" citation, or a citation alleging a class "B" violation and either a

class "AA" or class "A" violation or the proposed assessment of a civil penalty therefor, the licensee shall within five business days after service of the citation notify the director in writing of his or her request for a citation review conference with the designee of the director for the county in which the cited long-term health care facility is located. The director's designee shall hold, within five business days from the receipt of the request, a citation review conference, at the conclusion of which he or she may affirm, modify, or dismiss the citation or proposed assessment of a civil penalty. If the director's designee affirms, modifies, or dismisses the citation or proposed assessment of a civil penalty, he or she shall state with particularity in writing his or her reasons for that action, and shall immediately transmit a copy thereof to each party to the original complaint. If the licensee desires to contest a decision made after the citation review conference, the licensee shall inform the director in writing within five business days after he or she receives the decision by the director's designee. If the licensee fails to notify the director in writing that he or she intends to contest the citation or the proposed assessment of a civil penalty therefor or the decision made by a director's designee after a citation review conference within the time specified in this subdivision, the citation or the proposed assessment of a civil penalty or the decision by a director's designee after a citation review conference shall be deemed a final order of the state department and shall not be subject to further administrative review.

(b) If a licensee notifies the director that he or she intends to contest a class "AA" or a class "A" citation, or a citation alleging a class "B" violation and either a class "AA" or class "A" violation, the director shall immediately notify the Attorney General. Upon notification, the Attorney General shall promptly take all appropriate action to enforce the citation and recover the civil penalty prescribed thereon, and shall take such other action as the Attorney General shall deem appropriate, in the court of competent jurisdiction for the county in which the long-term health care facility is located.

(c) If a licensee desires to contest a class "B" citation or the proposed assessment of a civil penalty therefor, the licensee shall within five business days after service of the citation (1) notify the director in writing of his or her request for a citation review conference with the designee of the director for the county in which the cited long-term health care facility is located; or (2) notify the director in writing of the licensee's intent to adjudicate the validity of the citation in the municipal court in the county in which the long-term health care facility is located. If requested by the licensee, the director's designee shall hold, within five business days from the receipt of the request, a citation review conference, at the conclusion of which he or she may affirm, modify, or dismiss the citation or the proposed assessment of a civil penalty. If the director's designee affirms, modifies, or dismisses the citation or proposed assessment of

a civil penalty, he or she shall state with particularity in writing his or her reasons for that action and shall immediately transmit a copy thereof to each party to the original complaint. If the licensee desires to contest a decision made after the citation review conference, the licensee shall inform the director in writing within five business days after he or she receives the decision by the director's designee. In order to perfect a judicial appeal of a contested citation, a licensee shall file a civil action in the municipal court in the county in which the long-term health care facility is located. The action shall be filed no later than 60 calendar days after a licensee notifies the director that he or she intends to contest a citation, and served no later than 60 days thereafter, or, in the event a citation review conference is held, no later than 60 calendar days after a licensee notifies the director of his or her intent to contest the decision of the director's designee. If a judicial appeal is prosecuted under the provisions of this subdivision, the state department shall have the burden of establishing by a preponderance of the evidence that (1) the alleged violation did occur, (2) the alleged violation met the criteria for the class of citation alleged, and (3) the assessed penalty was appropriate. The state department shall also have the burden of establishing by a preponderance of the evidence that the assessment of a civil penalty should be upheld. If a licensee fails to notify the director in writing that he or she intends to contest the citation or the decision made by the director's designee within the time specified in this subdivision, or fails to file a civil action within the time specified in this subdivision, the citation or the decision by the director's designee after a citation review conference shall be deemed a final order of the state department and shall not be subject to further administrative review. If a licensee prosecutes a judicial appeal of a contested citation or the assessment of a civil penalty, no civil penalty shall be due and payable unless and until the appeal is terminated in favor of the state department. Notwithstanding any other provision of law, a licensee prosecuting a judicial appeal, after January 1, 1988, shall file and serve an at issue memorandum pursuant to Rule 209 of the California Rules of Court by July 1, 1988, or within six months after the state department files its answer in the appeal, whichever is later. The court shall dismiss the appeal upon motion of the state department if the at issue memorandum is not filed by the facility within the period specified.

(d) The director or the director's designee shall establish an independent unit of trained citation review conference hearing officers within the state department to conduct citation review conferences. Citation review conference hearing officers shall be directly responsible to the deputy director for licensing and certification, and shall not be concurrently employed as supervisors, district administrators, or regional administrators with the licensing and certification division. Specific training shall be provided to members of this unit on conducting an informal conference, with emphasis on the regulatory and legal aspects of long-term health

care.

Where the state department issues a citation as a result of a complaint or regular inspection visit, and a resident or residents are specifically identified in a citation by name as being specifically affected by the violation, then the following persons may attend the citation review conference:

(1) The complainant and his or her designated representative.

(2) A personal health care provider, designated by the resident.

(3) A personal attorney, only if the long-term health care facility has an attorney present.

(4) Any person representing the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code.

Where the state department determines that residents in the facility were threatened by the cited violation but does not name specific residents, any person representing the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, and a representative of the residents or family council at the facility may participate to represent all residents. In this case, these representatives shall be the sole participants for the residents in the conference. The residents' council shall designate which representative will participate.

The complainant, affected resident, or their designated representatives shall be notified by the state department of the conference and their right to participate. The director's designee shall notify the complainant or his or her designated representative and the affected resident or his or her designated representative, of his or her determination based on the citation review conference.

(e) In assessing the civil penalty for a violation, all relevant facts shall be considered, including, but not limited to, all of the following:

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

(2) The patient's medical condition.

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

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

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

(f) Except as otherwise provided in this subdivision, an assessment of civil penalties for a class "A" or class "B" violation shall be trebled and collected for a second or subsequent violation occurring within any 12-month period, if a citation was issued and a civil penalty assessed for the previous violation occurring within the period, without regard to whether the action to enforce the previous citation has become final. However, the increment to the civil penalty required by this subdivision shall not be due and payable unless and until the previous action has terminated in favor of the state department.

If the class "B" violation is a patient's rights violation, as defined in subdivision (d) of Section 1424, it shall not be trebled unless the state department determines the violation has a direct or immediate relationship to the health, safety, security, or welfare of long-term health care facility residents.

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

(h) Actions brought under this chapter shall be set for trial at the earliest possible date and shall take precedence on the court calendar over all other cases except matters to which equal or superior precedence is specifically granted by law. Times for responsive pleading and for hearing any such proceeding shall be set by the judge of the court with the object of securing a decision as to subject matters at the earliest possible time.

(i) If the citation is dismissed or reduced, the state department shall take action immediately to ensure that the public records reflect in a prominent manner that the citation was dismissed or reduced.

(j) Upon a licensee notifying the director of its intent to contest one or more citations or decisions made following a citation review conference where the total penalties do not exceed fifteen thousand dollars ($15,000), either the state or the licensee may elect to submit the matter to binding arbitration. The parties shall agree upon an arbitrator designated from the American Arbitration Association in accordance with the association's established rules and procedures. The arbitration hearing shall be set within 45 days of the petitioner's election, but in no event less than 28 days from the date of selection of an arbitrator. The arbitration hearing may be continued up to 15 additional days if necessary at the arbitrator's discretion. The arbitrator's decision shall specify, in writing, the areas of disagreement between the parties, the evidence upon which the decision is based, and the reasons for the decision. The decision of the arbitrator shall be based upon substantive law and shall be binding on all parties, subject to judicial review. This review shall be limited to whether there was substantial evidence to support the decision of the arbitrator.

The arbitrator shall determine which of the parties are financially liable for arbitration costs based upon the position each took at the commencement of the arbitration proceedings compared to the decision of the arbitrator.

The retention of, renewal of, or application for, a license to operate a skilled nursing facility or intermediate care facility shall, for purposes of the administration of this chapter, be deemed a written agreement to arbitrate contested citations within the meaning of Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure. Without extending the time for commencement of these hearings, the provisions of Section 1283.05 of the Code of Civil Procedure shall be applicable to all proceedings to arbitrate citations

issued pursuant to this chapter, except that depositions may be noticed and taken without prior approval of the arbitrator.

Penalties paid on violations under this chapter shall be applied against the state department's accounts to offset any costs incurred by the state pursuant to this subdivision. Any costs or penalties assessed pursuant to this chapter shall be paid within 30 days of the date the decision becomes final. If a facility does not comply with this provision, the state department shall withhold any payment under the Medi-Cal program until the debt is satisfied. No payment shall be withheld if the state department determines that it would cause undue hardship to the facility or to patients of the facility.

SEC. 3. Section 14018.4 of the Welfare and Institutions Code is amended to read:

14018.4. (a) Reimbursement shall not be denied to any hospital, licensed primary care clinic, or long-term health care facility as defined in Section 1326 of the Health and Safety Code for care rendered to an eligible Medi-Cal beneficiary for the sole reason that a proof of eligibility label does not accompany the bill, so long as the claim includes other appropriate documentation of eligibility.

(b) The director shall require county welfare departments to issue, upon the request of a hospital, licensed primary care clinic, or long-term health care facility as defined in Section 1326 of the Health and Safety Code providing care to an eligible Medi-Cal beneficiary, replacement Medi-Cal proof of eligibility labels or other appropriate documentation of eligibility to the requester, if all of the following conditions are met:

(1) The hospital, licensed primary care clinic, or long-term health care facility as defined in Section 1326 of the Health and Safety Code attempted to obtain a label from the beneficiary at the time the service was provided.

(2) The hospital, licensed primary care clinic, or long-term health care facility as defined in Section 1326 of the Health and Safety Code made a subsequent attempt to obtain a label or other appropriate documentation from the beneficiary.

(c) Notwithstanding subdivision (a), the director shall require that the replacement proof of eligibility label or other appropriate documentation of eligibility provided pursuant to subdivision (b) accompany the bill of the hospital, the licensed primary care clinic, or the long-term health care facility as defined in Section 1326 of the Health and Safety Code.

(d) This section shall remain in effect only until both the Secretary of the Senate and the Chief Clerk of the Assembly have received certification by registered mail from the Director of Health Services, that the automated eligibility verification system required by Section 14042 is operative for all counties and has been demonstrated to be accurate for each county at the 97-percent level as required by Section 14042 and as of that date is repealed.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 1428 of the Health and Safety Code proposed by both this bill

and SB 73. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1988, (2) each bill amends Section 1428 of the Health and Safety Code, and (3) this bill is enacted after SB 73, in which case Section 2 of this bill shall not become operative.

CHAPTER 1162

An act to amend Sections 5606, 5622, 5654, 5758, 5810, 6503, 6522, 7300, 7450, 7500, 7675, 8030, 10000, and 10010 of, to amend and renumber Sections 10001, 10002, 10003, 10011, 10012, and 10013 of, to add Sections 10001, 10004, 10005, 10006, 10007, 10011, 10014, 10015, 10016, and 10017 to, to add Article 4 (commencing with Section 5300) to Chapter 1 of Division 2 of, to repeal and add Chapter 8 (commencing with Section 8500) of Division 2 of, and to repeal Sections 5200, 5201, and 5202 of, the Financial Code, and to amend Section 408 of the Revenue and Taxation Code, relating to savings associations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 26, 1987.]

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

SECTION 1. Section 5200 of the Financial Code is repealed.

SEC. 2. Section 5201 of the Financial Code is repealed.

SEC. 3. Section 5202 of the Financial Code is repealed.

SEC. 4. Article 4 (commencing with Section 5300) is added to Chapter 1 of Division 2 of the Financial Code, to read:

Article 4. Penalties

5300. Whoever willfully and knowingly makes, issues, circulates, transmits, or causes or knowingly permits to be made, issued, circulated, or transmitted, any statement or rumor which is written, printed, reproduced in any manner, or communicated by word of mouth, that is untrue in fact and is directly or by inference false, or malicious in that it is calculated to injure the reputation or business, financial condition, or standing of any association shall be fined not more than ten thousand dollars ($10,000) or imprisoned in the state prison or the county jail not exceeding one year, or both.

5301. Whoever knowingly makes or causes to be made, directly or indirectly, or through any agency whatsoever, any false statement or report, or willfully overvalues any land, property, or security, for the purpose of influencing in any way the action of any association upon any application, advance, discount, purchase or repurchase agreement, commitment, or loan or the change or extension of any

of these transactions by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security for these transactions shall be fined not more than ten thousand dollars ($10,000) or imprisoned in the state prison or the county jail not exceeding one year, or both.

5302. Every person who willfully violates or willfully fails to comply with any of the provisions of this division is guilty of a public offense. Except where the offense is declared to be a felony or a misdemeanor or a different punishment is prescribed, a person convicted under this section shall be fined not more than ten thousand dollars ($10,000), or imprisoned in the state prison or in the county jail not exceeding one year, or by both.

5303. Any officer, director, employee, or agent of any association (a) who willfully makes or knowingly concurs in the making or publishing of a false or untrue material entry in any book, record, report, statement concerning the business or affairs of the association, or statement of condition or in connection with any transaction of the association, with intent to deceive any officer or director thereof, or with intent to deceive any agency or examiner, whether private or public, employed or lawfully appointed to examine into the assocation's condition or to examine into any of the association's affairs or transactions, or with intent to deceive any public officer, office, or board to which the association is required by law to report or which has authority by law to examine into the association's affairs or transactions or (b) who, with like intent, willfully omits to make a material new entry of any matter particularly pertaining to the business, property, condition, affairs, transactions, assets, or accounts of the association in any appropriate book, record, report, or statement of the association, which entry is required to be made by law or generally accepted accounting principles applicable to a savings institution, or (c) who, with like intent, willfully alters, abstracts, conceals, refuses to allow to be inspected by the commissioner or the commissioner's deputies or examiners, or destroys any books, records, reports, or statements of the association made, written, or kept, or required to be made, written, or kept by him or her or under his or her direction, shall be fined not more than ten thousand dollars ($10,000), or imprisoned in the state prison or in a county jail not exceeding one year, or by both.

5304. Any person that willfully violates any provision of this division or any implementing regulation or order issued by the commissioner, shall pay as a penalty a sum not to exceed one thousand dollars ($1,000) for each day during which the violation continues. This fine shall be in addition to any other applicable penalties or remedies provided in this division.

SEC. 5. Section 5606 of the Financial Code is amended to read:

5606. (a) Prior to doing business in this state, an association shall obtain and maintain insurance of its savings accounts by the Federal Savings and Loan Insurance Corporation.

(b) Prior to doing business in this state, a foreign savings

association, as defined in Sections 10000 and 10010, shall maintain insurance of its savings accounts by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation.

(c) The commissioner may enforce any statutes or regulations of the Federal Savings and Loan Insurance Corporation, (12 U.S.C. Sec. 1724 et seq. and 12 C.F.R. Sec. 561 et seq.) as these statutes and regulations apply to associations.

SEC. 6. Section 5622 of the Financial Code is amended to read:

5622. Capital stock of a stock association shall be issued pursuant to the following requirements:

(a) Except for stock issued pursuant to a stock dividend, stock split, reverse stock split, reclassification of outstanding stock into stock of another class, exchange of outstanding stock for stock of another class or other change affecting outstanding stock or an employee stock option plan or a plan of merger, consolidation, conversion from a mutual to a stock association, or other type of reorganization that has been approved by the commissioner, the consideration for the issuance of capital stock shall be money paid, debts or securities canceled or tangible or intangible property actually received either by the association or by a wholly owned subsidiary. The par value or stated value of stock shall be maintained as the permanent capital of the association and any additional amount paid in shall be credited to paid-in surplus.

(b) The aggregate par value or stated value of all outstanding shares of capital stock shall be the permanent capital of the association and except as otherwise specifically provided by this division, capital stock shall not be retired until final liquidation of the association.

(c) No association shall reduce the par or stated value of its outstanding capital stock without first obtaining the written approval of the commissioner, and approval shall be withheld if the reduction would cause the par or stated value of outstanding capital stock to be less than the minimum required by this division or would result in less than adequate statutory net worth as the commissioner may determine under Section 6475.

(d) No association shall retire any part of its capital stock unless the retirement is approved by the commissioner.

(e) No association shall make loans secured by its capital stock.

(f) With the written approval of the commissioner, an association may purchase its capital stock or may contract with a stockholder for purchase of stock upon the stockholder's death. However, the purchase shall not reduce the net worth accounts of the association, or any of them, to an amount less than required by applicable law. An association which agrees with a stockholder to purchase that stockholder's capital stock upon death may purchase insurance upon the life of the stockholder to fund or partially fund the purchase.

SEC. 7. Section 5654 of the Financial Code is amended to read:

5654. (a) Without the prior approval of the commissioner, as

provided in this division, no association shall do any of the following:

(1) Establish or maintain any office, other than its home office, which shall be in the location named in the certificate of authority.

(2) Change the location or designation of any office from its approved location or designation.

(3) Change its corporate name by amendment of its articles of incorporation and its certificate of authority. A change of name is subject to the same criteria as set out in Sections 5650 and 5651.

(4) Amend its articles of incorporation or bylaws.

(5) Establish or maintain a subsidiary.

(6) Acquire the assets or savings account liabilities from another financial institution.

(b) Applications for approval under this section shall be filed in the office of the commissioner, shall include information as prescribed by regulation or written instruction of the commissioner, and shall be accompanied by any filing fee prescribed by the commissioner pursuant to Section 9001.

(c) A public hearing may be held on applications filed under this section in accordance with procedures prescribed by law or by regulations adopted by the commissioner.

(d) No certificate of amendment or other certificate to amend the articles of incorporation of an association shall be filed in the office of the Secretary of State unless there is attached thereto the certificate of the commissioner approving the same.

(e) Applicants filing under this division shall publish notice as prescribed by the commissioner.

SEC. 8. Section 5758 of the Financial Code is amended to read:

5758. The executed agreement, or an executed counterpart of it and the respective certificate of each constituent association or any other corporation and of the surviving association shall be filed with the Secretary of State. Neither the agreement nor any certificate shall be filed, however, unless the commissioner's written approval is attached and until there has been filed with the Secretary of State, by or on behalf of each association or any other corporation taxed under the provisions of Chapter 2 (commencing with Section 23101) of Part 11 of Division 2 of the Revenue and Taxation Code, the existence of which is terminated by the merger or consolidation, the certificate of satisfaction of the Franchise Tax Board that all taxes imposed by the act have been paid or secured. The effective date of the merger or consolidation under this article shall be the date of the filing with the Secretary of State of the copy of the approved agreement of merger or consolidation. A copy of the approved agreement certified by the Secretary of State shall be filed with the commissioner.

If the resulting association is a federal association, the effective date of merger shall be the date the merger is effective under regulations of the Federal Home Loan Bank Board.

SEC. 9. Section 5810 of the Financial Code is amended to read:

5810. The commissioner shall have the enforcement powers with

respect to savings and loan holding companies and their subsidiaries that are provided with respect to associations in Section 8200.

SEC. 10. Section 6503 of the Financial Code is amended to read:

6503. (a) An association may acquire, hold, sell, develop, subdivide, dispose of, and convey real and personal property consistent with its objects and powers. It may mortgage, pledge, or lease any real or personal property and may take the property by gift, devise, or bequest.

(b) No association or subsidiary thereof, without the written consent of the commissioner, shall enter into any transaction or modification of any transaction with an affiliated person to buy, lease, or sell real or personal property, or take that property by gift.

SEC. 11. Section 6522 of the Financial Code is amended to read:

6522. (a) An association that declares and pays dividends may distribute its own shares or may make payments in cash or property. Payment of cash or property shall be made only if there is a sufficient balance of unappropriated retained earnings which is that portion of income retained in the business since its organization or reorganization and which has not been appropriated or reserved for some specific purpose. Dividends shall not be distributed unless the association meets its required statutory net worth before and after that distribution. No dividends shall be paid if that payment would cause the association to be in an impaired condition.

(b) A stock split, as defined in Section 188 of the Corporations Code, and a reverse stock split, as defined in Section 182 of the Corporations Code, are authorized and shall not be construed to be dividends within the meaning of this section.

(c) Any distribution of permanent capital or paid in surplus shall require prior approval of the commissioner.

(d) Any shareholder who receives any distribution prohibited by this section with knowledge of facts indicating the impropriety thereof is liable to the association for the amount received. The commissioner may bring an action for the benefit of the association to recover the distribution from the shareholder.

SEC. 12. Section 7300 of the Financial Code is amended to read:

7300. (a) Each association shall have power to invest in real property, tangible personal property and interests in real property for the conduct of the business of the association, or its service corporation, which power shall include the ownership of stock of a wholly owned subsidiary corporation having as its exclusive activity the ownership and management of the property or interests.

(b) As used in this section, the term "real property" includes structures or buildings located on land owned in fee or held under a lease or sublease by the association with an unexpired term, including extensions or renewals that are automatically effective or may be exercised at the association's option, of 25 years at the date of execution by the association of the lease or sublease.

(c) No association may without written approval of the commissioner purchase, sell, or pay interest on or dividends

involving, gold or silver bullion or related instruments or securities except gold coins minted and issued by the United States Treasury pursuant to Public Law 99-185, 99 Stat. 1177 (1985).

SEC. 13. Section 7450 of the Financial Code is amended to read:

7450. (a) An association may make any loan authorized by this division, but the association shall first determine that the type, amount, purpose, and repayment provisions of the loan in relation to the borrower's resources and credit standing support the reasonable belief that the loan will be financially sound and will be repaid according to its terms, and that the loan is not otherwise unlawful.

(b) Subject to any regulations of the commissioner, an association may make or acquire loans directly or indirectly to or from any director, officer, affiliated person, or any parent or subsidiary. Loans made or acquired, directly or indirectly, the proceeds of which are intended to inure or have inured to the benefit of these parties are subject to the same regulations.

SEC. 14. Section 7500 of the Financial Code is amended to read:

7500. (a) Subject to limitations, if any, within this chapter, an association may originate, invest in, sell, purchase, service, participate, or otherwise deal in (including brokerage or warehousing) loans, including construction loans, made on the security of residential or nonresidential real property, or interests in these loans.

(b) No investment in real property or a real estate loan shall be made by an association until one or more written appraisal reports, prepared at the request of an association or its agent, have been submitted to the association by a person or persons meeting the qualification standards for an appraiser as set forth in the commissioner's regulations. No commitment to disburse shall be made by the association until the person or persons have been duly appointed and qualified as appraisers by the board of directors of the association. Such a person or persons shall have made a physical inspection and submitted to the association a fully documented appraisal of the real estate that would secure the loan or constitute the investment, or, in the case of a purchased loan, the person or persons have reviewed and approved an appraisal report in support of the loan. If the balance of any purchased loan is one million dollars ($1,000,000) or more, the person or persons reviewing and approving the appraisal report shall have inspected the real estate. Each appraisal report submitted to an association pursuant to this subdivision shall be signed and shall include the tax identification number, social security number, or other form of verifiable identification of the person or persons signing the appraisal report.

(c) For the purpose of determining appraised value, unimproved property without offsite improvements shall be evaluated as though offsite improvements have been installed if a subdivision map has been recorded and a bond or other instrument guaranteeing installation of the offsite improvements has been accepted by the governing authorities in connection with the recording of the

subdivision map.

SEC. 14.5. Section 7675 of the Financial Code is amended to read:

7675. (a) Pursuant to the authority contained in Section 1 of Article XV of the California Constitution, the restrictions upon rates of interest contained in Section 1 of Article XV of the California Constitution shall not apply to any obligations of, loans made or arranged by, or forbearances of, an association; a federal association; a qualified foreign savings association; an entity that is a savings and loan holding company; a subsidiary of a savings and loan holding company that is not an association; or a service corporation which is a subsidiary of an association, a federal association, or a qualified foreign savings association. As used in this section, the terms "savings and loan holding company" and "subsidiary" mean a savings and loan holding company or a subsidiary, as defined in Section 408 of the National Housing Act (12 U.S.C. Sec. 1730a(a)(1)), as amended, and the term "service corporation" means a service corporation described in Section 5(c)(4)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C. Sec. 1464), as amended, or Section 7252, or a wholly owned subsidiary referred to in Section 7300.

(b) Subdivision (a) creates and authorizes an exempt class of persons pursuant to Section 1 of Article XV of the California Constitution. Notwithstanding any other provision of law, subdivision (a) does not exempt an association; a federal association; a foreign savings association; a savings and loan holding company, a subsidiary of a savings and loan holding company; a service corporation which is a subsidiary of an association; a federal association, or foreign savings association from complying with all other law and regulations governing the business in which the association, federal association, foreign savings association, savings and loan holding company, subsidiary of a savings and loan holding company, or service corporation which is a subsidiary of an association, a federal association, or a foreign savings association is engaged.

(c) For purposes of this section, "foreign savings association" means a foreign savings association as defined in Chapter 10 (commencing with Section 10000) or Chapter 10.1 (commencing with Section 10010) and "qualified foreign savings association" means a foreign savings association that has been authorized to conduct the business of an association in this state by the commissioner.

SEC. 14.7. Section 8030 of the Financial Code is amended to read:

8030. (a) To meet the operating costs and expenses provided for in this division, for the payment of which no provision is otherwise made, the commissioner shall require each association doing business in this state to pay in advance an annual assessment for its pro rata share of all operating costs and expenses as estimated by the commissioner for the ensuing year.

(b) As used in this article, "association" includes a foreign savings association doing business in this state under an approval issued by

the commissioner.

SEC. 15. Chapter 8 (commencing with Section 8500) of Division 2 of the Financial Code is repealed.

SEC. 16. Chapter 8 (commencing with Section 8500) is added to Division 2 of the Financial Code, to read:

CHAPTER 8. FEDERAL ASSOCIATIONS

8500. (a) Every federal association and the holders of stock, shares, share accounts, savings accounts, and certificate accounts issued by any federal association have all the rights, powers, and privileges, and are entitled to the same exemptions and immunities granted, respectively, to associations organized under the laws of this state and to the holders of their stock, membership accounts, and savings accounts.

(b) This section is in addition and supplemental to any provision that, by specific reference, is applicable to federal associations and their members or stockholders.

SEC. 17. Section 10000 of the Financial Code is amended to read:

10000. Terms not expressly defined in this chapter have the meaning given in Chapter 1 (commencing with Section 5000) or as the commissioner may provide by regulation. For the purposes of this chapter:

(a) "California savings association" means either (1) an association or (2) a foreign association or successor thereof that was licensed to do the business of an association in California on September 15, 1935.

(b) "Foreign holding company" means a savings and loan holding company as defined in Section 408(a) (1) (D) of the National Housing Act, as amended, (12 U.S.C. Sec. 1730 a(a) (1) (D)) or bank holding company as defined in Section 3 of the federal Bank Holding Company Act, as amended, (12 U.S.C. Sec. 1841 et seq.), which savings and loan or bank holding company (1) has its principal place of deposits outside of California and (2) does not control a subsidiary California savings association or a subsidiary federal association with, or a subsidiary foreign savings association with, an authorized home or branch office in California at which accounts may lawfully be opened and deposits may lawfully be accepted.

(c) "Foreign savings association" means an insured institution other than a California savings association and other than a federal association.

(d) "Insured institution" means an entity: (1) the deposits of which are insured by the Federal Savings and Loan Insurance Corporation; (2) which is chartered by the Federal Home Loan Bank Board; or (3) which, because of its assets or activities, has a holding company that is regulated as a savings and loan holding company under Section 408 of the National Housing Act, as amended, (12 U.S.C. Sec. 1730a et seq.).

(e) The "principal place of deposits" of an entity is that state in

which the total deposits of all of that entity's depository operations and those of its affiliates are largest.

SEC. 18. Section 10001 of the Financial Code is amended and renumbered to read:

10002. Notwithstanding Section 10001, and subject to Section 10003, on and after January 1, 1991, a foreign savings association may conduct the business of an association in California or may acquire control of a California savings association, and a foreign holding company may acquire control of a California savings association; provided that, if the commissioner determines that the laws, court decisions, or practices of the jurisdiction under which the foreign savings association is incorporated or, in the case of a foreign holding company, the holding company's principal place of deposits, would operate to prohibit, restrict, condition, or otherwise limit a California savings association from conducting the business of, or acquiring control of, a savings association in the relevant jurisdiction pursuant to the laws, court decisions, or practices of that jurisdiction, a similar prohibition, restriction, condition, or limitation to be prescribed by regulation or order of the commissioner shall apply in California to the foreign savings association or foreign holding company.

SEC. 19. Section 10001 is added to the Financial Code, to read:

10001. (a) No person, other than a California savings association or other person authorized by this division, shall do any business of an association.

(b) No foreign savings association may control a California savings association.

(c) No foreign holding company may control a California savings association.

(d) The commissioner shall obtain an injunction or take other action necessary to prevent any person from unlawfully doing any business of an association in this state.

SEC. 20. Section 10002 of the Financial Code is amended and renumbered to read:

10003. No foreign savings association may conduct the business of an association in California, and no foreign savings association or foreign holding company may acquire control of a California savings association, without the written approval of the commissioner. A foreign savings association or foreign holding company shall submit to the commissioner a written application for approval in the form and shall pay such fees as the commissioner prescribes. The foreign savings association or foreign holding company shall submit with the application such information, data, and records as the commissioner may require in order to make his or her determination. The commissioner may issue such regulations as he or she deems to be appropriate to preserve the public interest and integrity of the state's savings association system and to protect the interests of savings account holders, borrowers, and stockholders resident in this state. The commissioner may make arrangements with the supervisory officials of other states for reciprocal examination of California

savings associations, foreign savings associations and foreign holding companies, and the imposition of fees therefor and may condition his or her approval pursuant to this chapter upon the existence of those arrangements.

SEC. 21. Section 10003 of the Financial Code is amended and renumbered to read:

10009. This chapter shall become operative on January 1, 1991.

SEC. 22. Section 10004 is added to the Financial Code, to read:

10004. Except as expressly provided for in this chapter, any person who, as principal, agent, salesperson, solicitor, or in any other capacity, solicits or conducts in this state the business of selling, disposing of, taking, or soliciting savings accounts of any foreign savings association that has not complied with all the requirements of this chapter, is guilty of a public offense punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine not exceeding ten thousand dollars ($10,000), or by both a fine and imprisonment.

SEC. 23. Section 10005 is added to the Financial Code, to read:

10005. For the purposes of this article and any other law of this state prohibiting, limiting, or regulating the doing of business in this state by foreign savings associations or foreign corporations, any foreign savings association subject to state or federal supervision, which by law is subject to periodic examination by that supervisory authority and to a requirement of periodic audit, shall not be considered to be doing business in this state by reason of engaging in the following:

(a) Any of the activities specified in subdivision (d) of Section 191 of the Corporations Code.

(b) The advertising or solicitation of savings accounts in this state through the media of the mail, radio, television, magazines, newspapers, or any other media that are published or circulated within this state, provided that the advertising or solicitation as a whole is accurate and does not create a misleading impression even though statements considered separately are literally accurate.

SEC. 24. Section 10006 is added to the Financial Code, to read:

10006. Except as provided by regulation, this division applies to a foreign savings association or its holding company as if business conducted in this state were that of a California savings association.

SEC. 25. Section 10007 is added to the Financial Code, to read:

10007. If a foreign savings association is controlled by a foreign holding company, the requirements under this chapter applicable to both a foreign savings association and foreign holding company are required to be met.

SEC. 26. Section 10010 of the Financial Code is amended to read:

10010. Terms not expressly defined in this chapter have the meaning given in Chapter 1 (commencing with Section 5000) or as the commissioner may provide by regulation. For the purposes of this chapter:

(a) "California savings association" means either (1) an

association or (2) a foreign association or successor thereof that was licensed to do the business of an association in California on September 15, 1935.

(b) "Foreign holding company" means a savings and loan holding company as defined in Section 408(a) (1) (D) of the National Housing Act, as amended, (12 U.S.C. Sec. 1730 a(a) (1) (D)) or bank holding company as defined in Section 3 of the federal Bank Holding Company Act, as amended, (12 U.S.C. Sec. 1841 et seq.), which savings and loan or bank holding company (1) has its principal place of deposits outside of California and (2) does not control a subsidiary California savings association or a subsidiary federal association with, or a subsidiary foreign savings association with, an authorized home or branch office in California at which accounts may lawfully be opened and deposits may lawfully be accepted.

(c) "Foreign savings association" means an insured institution other than a California savings association and other than a federal association.

(d) "Insured institution" means an entity: (1) the deposits of which are insured by the Federal Savings and Loan Insurance Corporation; (2) which is chartered by the Federal Home Loan Bank Board; or (3) which, because of its assets or activities, has a holding company that is regulated as a savings and loan holding company under Section 408 of the National Housing Act, as amended (12 U.S.C. Sec. 1730a et seq.).

(e) The "principal place of deposits" of an entity is that state in which the total deposits of all of that entity's depository operations and those of its affiliates are largest.

SEC. 27. Section 10011 of the Financial Code is amended and renumbered to read:

10012. Notwithstanding Section 10011, and subject to Section 10013, on and after July 1, 1987, a foreign savings association which is incorporated under the laws of any of the states of Alaska, Arizona, Colorado, Hawaii, Idaho, Nevada, New Mexico, Oregon, Texas, Utah, or Washington, and which is not directly or indirectly controlled by either a foreign savings association which is incorporated under the laws of a state other than any of the states listed in this section or a foreign holding company with its principal place of deposits located in a state outside one of those states, may conduct the business of an association in California or may acquire control of a California savings association, provided that, if the commissioner determines that the laws, court decisions, or practices of the jurisdiction in which the foreign savings association is incorporated or foreign holding company has its principal place of deposits would operate to prohibit, restrict, condition, or otherwise limit a California savings association from conducting the business of, or acquiring control of, a savings association in the relevant jurisdiction pursuant to the laws, court decisions, or practices of that jurisdiction, a similar prohibition, restriction, condition, or limitation to be prescribed by regulation or order of the commissioner shall apply in California to the foreign

savings association or foreign holding company.

SEC. 28. Section 10011 is added to the Financial Code, to read:

10011. (a) No person, other than a California savings association or other person authorized by this division, shall do any business of an association.

(b) No foreign savings association may control a California savings association.

(c) No foreign holding company may control a California savings association.

(d) The commissioner shall obtain an injunction or take any other action necessary to prevent any person from unlawfully doing any business of an association in this state.

SEC. 29. Section 10012 of the Financial Code is amended and renumbered to read:

10013. No foreign savings association may conduct the business of an association in California, and no foreign savings association or foreign holding company may acquire control of a California savings association, without the written approval of the commissioner. A foreign savings association or foreign holding company shall submit to the commissioner a written application for approval in the form and shall pay such fees as the commissioner prescribes. The foreign savings association or foreign holding company shall submit with the application such information, data, and records as the commissioner may require in order to make his or her determination. The commissioner may issue such regulations as he or she deems to be appropriate to preserve the public interest and integrity of the state's savings association system and to protect the interests of savings account holders, borrowers, and stockholders resident in this state. The commissioner may make arrangements with the supervisory officials of other states for reciprocal examination of California savings associations, foreign savings associations and foreign holding companies, and the imposition of fees therefor and may condition his or her approval pursuant to this chapter upon the existence of those arrangements.

SEC. 30. Section 10013 of the Financial Code is amended and renumbered to read:

10050. This chapter shall remain in effect until January 1, 1991, and as of that date is repealed.

SEC. 31. Section 10014 is added to the Financial Code, to read:

10014. Except as expressly provided for in this chapter, any person who, as principal, agent, salesman, solicitor, or in any other capacity, solicits or conducts in this state the business of selling, disposing of, taking, or soliciting savings accounts of any foreign savings association that has not complied with all the requirements of this chapter, is guilty of a public offense punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine not exceeding ten thousand dollars ($10,000), or by both a fine and imprisonment.

SEC. 32. Section 10015 is added to the Financial Code, to read:

10015. For the purposes of this article and any other law of this state prohibiting, limiting, or regulating the doing of business in this state by foreign savings associations or foreign corporations, any foreign savings association subject to state or federal supervision, which by law is subject to periodic examination by that supervisory authority and to a requirement of periodic audit, shall not be considered to be doing business in this state by reason of engaging in the following:

(a) Any of the activities specified in subdivision (d) of Section 191 of the Corporations Code.

(b) The advertising or solicitation of savings accounts in this state through the media of the mail, radio, television, magazines, newspapers, or any other media that are published or circulated within this state; provided, however, that the advertising or solicitation as a whole is accurate and does not create a misleading impression even though statements considered separately are literally accurate.

SEC. 33. Section 10016 is added to the Financial Code, to read:

10016. Except as provided by regulation, this division applies to a foreign savings association or its holding company as if business conducted in this state were that of a California savings association.

SEC. 33.5. Section 10017 is added to the Financial Code, to read:

10017. If a foreign savings association is controlled by a foreign holding company, the requirements under this chapter applicable to both a foreign savings association and a foreign holding company shall be met.

SEC. 34. Section 408 of the Revenue and Taxation Code is amended to read:

408. (a) Except as otherwise provided in subdivisions (b) and (c), any information and records in the assessor's office which are not required by law to be kept or prepared by the assessor, and homeowners' exemption claims, are not public documents and shall not be open to public inspection. Property receiving the homeowners' exemption shall be clearly identified on the assessment roll. The assessor shall maintain records which shall be open to public inspection to identify those claimants who have been granted the homeowners' exemption.

(b) The assessor may provide any appraisal data in his or her possession to the assessor of any county and shall provide any market data in his or her possession to an assessee of property or his or her designated representative upon request. The assessor shall permit an assessee of property or his or her designated representative to inspect at the assessor's office any information and records, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of his or her property. Except as provided in Section 408.1, an assessee or his or her designated representative, however, shall not be provided or permitted to inspect information and records, other than market data, which also relate to the property or business affairs of another person, unless

that disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to challenge the legality of his or her assessment.

(c) The assessor shall disclose information, furnish abstracts, or permit access to all records in his or her office to law enforcement agencies, the county grand jury, the board of supervisors or their duly authorized agents, employees or representatives when conducting an investigation of the assessor's office pursuant to Section 25303 of the Government Code, the Controller, employees of the Controller for property tax postponement purposes, probate referees, employees of the Franchise Tax Board for tax administration purposes only, staff appraisers of the Department of Savings and Loan, the Department of Transportation, and the Department of General Services, the State Board of Equalization, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine the records. Whenever the assessor discloses information, furnishes abstracts, or permits access to records in his or her office to staff appraisers of the Department of Savings and Loan, the Department of Transportation, or the Department of General Services pursuant to this section, the department shall reimburse the assessor for any costs incurred as a result thereof.

(d) For purposes of this section, "market data" means any information in the assessor's possession, whether or not required to be prepared or kept by him or her, relating to the sale of any property comparable to the property of the assessee, if the assessor bases his or her assessment of the assessee's property, in whole or in part, on that comparable sale or sales. The assessor shall provide the names of the seller and buyer of each property on which the comparison is based, the location of that property, the date of the sale, and the consideration paid for the property, whether paid in money or otherwise, but for purposes of providing market data, the assessor shall not display any document relating to the business affairs or property of another.

SEC. 35. (a) 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.

(b) No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because self-financing authority is provided in subdivision (c) of Section 408 of the Revenue and Taxation Code to cover any costs to county assessors that may be incurred in carrying on any program or performing any service required to be carried on or performed by this act.

SEC. 36. This act is an urgency statute necessary for the immediate preservation of the public peace, 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 Savings and Loan Commissioner has determined that certain unlawful practices by a small element within the savings association industry continue to occur. This measure attempts to strengthen the commissioner's ability to treat those problems when they arise. Additionally, Chapter 1250 of the Statutes of 1986, to be operative on July 1, 1987, directly conflicts with parts of Division 2 (commencing with Section 5000) of the Financial Code. In order to provide more specific guidelines without delay for association officers, directors, and employees in conducting the business of an association under the laws of this state, as well as prevent confusing conflict of authority in the area of interstate banking, it is necessary that this act take effect immediately.

CHAPTER 1163

An act to add Section 1374.5 to the Health and Safety Code, and to amend Sections 10176, 10177, 11512.5, and 11512.8 of the Insurance Code, relating to insurance.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 26, 1987.]

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

SECTION 1. Section 1374.5 is added to the Health and Safety Code, to read:

1374.5. A health care service plan, which is issued, renewed, or amended on or after January 1, 1988, which includes mental health services coverage in nongroup contracts may not include a lifetime waiver for that coverage with respect to any applicant. The lifetime waiver of coverage provision shall be deemed unenforceable.

SEC. 2. Section 10176 of the Insurance Code is amended to read:

10176. In disability insurance, the policy may provide for payment of medical, surgical, chiropractic, physical therapy, speech pathology, audiology, acupuncture, professional mental health, dental, hospital, or optometric expenses upon a reimbursement basis, or for the exclusion of any such services, and provision may be made therein for payment of all or a portion of the amount of charge for these services without requiring that the insured first pay the expenses. No such policy shall prohibit the insured from selecting any psychologist or other person who is the holder of a certificate or license under Section 1000, 1634, 2135, 2553, 2630, 2948, 3055, or 4938 of the Business and Professions Code, to perform the particular services covered under the terms of the policy, the certificate holder or licensee being expressly authorized by law to perform such services.

If the insured selects any person who is a holder of a certificate under Section 4938 of the Business and Professions Code, a disability insurer or nonprofit hospital service plan shall pay the bona fide claim of an acupuncturist holding a certificate pursuant to Section 4938 of the Business and Professions Code for the treatment of an insured person only if the insured's policy or contract expressly includes acupuncture as a benefit and includes coverage for the injury or illness treated. Unless the policy or contract expressly includes acupuncture as a benefit, no person who is the holder of any license or certificate set forth in this section shall be paid or reimbursed under such policy for acupuncture.

Nor shall any such policy prohibit the insured, upon referral by a physician and surgeon licensed under Section 2135 of the Business and Professions Code, from selecting any licensed clinical social worker who is the holder of a license issued under Section 9040 of the Business and Professions Code or any occupational therapist as specified in Section 2570 of the Business and Professions Code, or any marriage, family and child counselor who is the holder of a license under Section 4980.50 of the Business and Professions Code, to perform the particular services covered under the terms of the policy, or from selecting any speech pathologist or audiologist licensed under Section 2530 of the Business and Professions Code or any registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, at such time as the State Board of Registered Nurses produces and maintains a list of those psychiatric-mental health nurses who possess a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, to perform services deemed necessary by the referring physician, such certificate holder, licensee or otherwise regulated person, being expressly authorized by law to perform the services.

Nothing in this section shall be construed to allow any certificate holder or licensee enumerated in this section to perform professional mental health services beyond his or her field or fields of competence as established by his or her education, training, and experience. For the purposes of this section, "marriage, family and child counselor" means 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.

An individual disability insurance policy, which is issued, renewed, or amended on or after January 1, 1988, which includes mental health services coverage may not include a lifetime waiver for that coverage with respect to any applicant. The lifetime waiver of

coverage provision shall be deemed unenforceable.

SEC. 3. Section 10177 of the Insurance Code is amended to read:

10177. A self-insured employee welfare benefit plan may provide for payment of professional mental health expenses upon a reimbursement basis, or for the exclusion of such services, and provision may be made therein for payment of all or a portion of the amount of charge for such services without requiring that the employee first pay such expenses. No such plan shall prohibit the employee from selecting any psychologist who is the holder of a certificate issued under Section 2948 of the Business and Professions Code or, upon referral by a physician and surgeon licensed under Section 2135 of the Business and Professions Code, any licensed clinical social worker who is the holder of a license issued under Section 9040 of the Business and Professions Code or any marriage, family, and child counselor who is the holder of a certificate or license under Section 4980.50 of the Business and Professions Code, or any registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, at such time as the State Board of Registered Nurses produces and maintains a list of those psychiatric-mental health nurses who possess a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, to perform the particular services covered under the terms of the plan, such certificate or license holder being expressly authorized by law to perform such services.

Nothing in this section shall be construed to allow any certificate holder or licensee enumerated in this section to perform professional services beyond his or her field or fields of competence as established by his or her education, training, and experience. 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.

A self-insured employee welfare benefit plan, which is issued, renewed, or amended on or after January 1, 1988, which includes mental health services coverage in nongroup contracts may not include a lifetime waiver for that coverage with respect to any employee. The lifetime waiver of coverage provision shall be deemed unenforceable.

SEC. 4. Section 11512.5 of the Insurance Code is amended to read:

11512.5. (a) On and after the effective date of this section, every nonprofit hospital service plan, including those plans issuing group hospital service contracts, which does not provide or arrange direct

health care services for its members, shall offer coverage for expenses incurred as a result of mental or nervous disorders, under such terms and conditions as may be agreed upon between the plan and the group contract holder. If the terms and conditions include coverage for inpatient care for nervous or mental disorders, the coverage shall extend to treatment provided at all of the following facilities:

(1) A general acute care hospital as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

(2) An acute psychiatric hospital as defined in subdivision (b) of Section 1250 of the Health and Safety Code.

(3) A psychiatric health facility as defined by Section 1250.2 of the Health and Safety Code operating pursuant to licensure by the State Department of Health Services or pursuant to a waiver of licensure by the State Department of Mental Health.

Nothing in this subdivision prohibits the plan which negotiates and enters into a contract with a professional or institutional provider for alternative rates of payment pursuant to Sections 10133 and 11512 from restricting or modifying the choice of providers.

(b) Every nonprofit hospital service plan, including those issuing group hospital service contracts, shall communicate the availability of that coverage to all group contract holders, and to all prospective group contract holders with whom they are negotiating. Every plan shall communicate to prospective group contract holders as to the availability of outpatient coverage for the treatment of mental or nervous disorders. This coverage may include community residential treatment services, as described in Section 5458 of the Welfare and Institutions Code, which are alternatives to institutional care.

SEC. 5. Section 11512.8 of the Insurance Code is amended to read:

11512.8. A hospital service contract may provide for payment of professional mental health expenses upon a reimbursement basis, or for the exclusion of such services, and provision may be made therein for payment of all or a portion of the amount of charge for such services without requiring that the employee first pay such expenses. No such contract shall prohibit the subscriber from selecting any psychologist who is the holder of a certificate issued under Section 2948 of the Business and Professions Code or, upon referral by a physician and surgeon licensed under Section 2135 of the Business and Professions Code, any licensed clinical social worker who is the holder of a license issued under Section 9040 of the Business and Professions Code or any marriage, family and child counselor who is the holder of a license under Section 4980.50 of the Business and Professions Code, or any registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, at such time as the State Board of Registered Nurses produces and maintains a list of

those psychiatric-mental health nurses who possess a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, to perform the particular services covered under the terms of the contract, such certificate or license holder being expressly authorized by law to perform such services.

Nothing in this section shall be construed to allow any certificate holder or licensee enumerated in this section to perform professional mental health services beyond his or her field or fields of competence as established by his or her education, training and experience. 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.

A hospital service contract, which is issued, renewed, or amended on or after January 1, 1988, which includes mental health services coverage in nongroup contracts may not contain a lifetime waiver for that coverage with respect to any applicant. The lifetime waiver of coverage provision shall be deemed unenforceable.

CHAPTER 1164

An act to amend Sections 20013.7, 20013.8, 20360.5, 20390, 20450, 20652.1, 20803, 20932, and 21211 of, to add Section 20022.4 to, and to repeal and add Section 20894.5 of, the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 26, 1987]

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

SECTION 1. Section 20013.7 of the Government Code is amended to read:

20013.7. (a) Effective January 1, 1985, there shall be an alternative level of benefits available to the following state miscellaneous members: (1) members who are excluded from the definition of state employee in subdivision (c) of Section 3513; (2) members who are supervisory employees as defined in Section 3522.1; (3) members employed by the executive branch of government who are not members of the civil services; and (4) members in state bargaining units for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section. Effective September 1, 1986, this section shall apply to members

employed by the state as provided for in Article VI of the Constitution. The board shall provide the affected members a one-month election period commencing on August 1, 1986. This section shall not apply to state miscellaneous members employed by the California State University or the University of California. This section shall not apply to any employee described by Section 20364 unless and until the employer, as defined in Section 20817, adopts a resolution approving that application.

(b) Effective September 1, 1986, there shall be an alternate level of benefits available to the following state industrial members: (1) members in State Bargaining Unit No. 1, Administrative, Financial, and Staff Services, State Bargaining Unit No. 2, Attorney and Hearing Officer, and State Bargaining Unit No. 16, Physician, Dentist, and Podiatrist, provided that a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section; (2) members who are excluded from the definition of state employees in subdivision (c) of Section 3513; (3) members who are supervisory employees as defined in Section 3522.1; and (4) members employed by the executive branch of government who are not members of the civil service. The board shall provide the affected members a one-month election period commencing on August 1, 1986.

(c) Members eligible to participate in the alternative level of benefits (hereinafter in this part referred to as the Second Tier) may make an irrevocable election to: (1) become subject to the Second Tier benefits provided for in Section 21251.146 for all past state miscellaneous and state industrial service and all future state miscellaneous and state industrial service not excluded by this section; or (2) become subject to the Second Tier benefits provided for in Section 21251.147 for state miscellaneous and state industrial service rendered on and after the effective date of the election to be subject to the Second Tier. Any election by a member to be subject to Section 21251.146 or Section 21251.147 shall also be signed by the spouse of the member and both signatures shall be notarized.

On an annual basis, the board shall provide a 30-day period for eligible members to make an irrevocable election to be subject to the Second Tier level of benefits provided for in Section 21251.146 or Section 21251.147. Eligible members who previously elected Section 21251.147 may make an irrevocable election to become subject to Section 21251.146 for all past state miscellaneous and state industrial service during this annual election period.

(d) Persons who become state miscellaneous or state industrial members described in this section or who become such members under Article 3 (commencing with Section 20360) of Chapter 3 of this part on or after the Second Tier effective date applicable to the member, shall be subject to Section 21251.147 unless an election is filed with the board to be subject to Section 21251.13. The appointing authority shall provide the member with the election form and the member shall exercise the election within 120 days of becoming a

member. The effective date of the election shall be the date on which the member became a state miscellaneous or state industrial member.

(e) A state miscellaneous or state industrial member who, on or after the effective date of an election to be subject to Section 21251.146 or Section 21251.147, ceases to be a member pursuant to Section 20390 or Section 20390.1 shall, upon again becoming a state miscellaneous or state industrial member, be subject to Section 21251.146 or Section 21251.147 in accordance with his or her previous irrevocable election. This subdivision does not apply to persons who return to membership as employees of the California State University.

Except as otherwise provided in this part, a state miscellaneous or state industrial member subject to Section 21251.146 or Section 21251.147 is subject to all other provisions applicable to state miscellaneous members except those provisions that provide for the payment of an annuity based on contributions. Notwithstanding anything to the contrary in this part, member contributions are not required for any service credit that is subject to Section 21251.146.

(f) The board shall report to the Governor, the Legislature, and the Department of Personnel Administration on the savings which are the result of the implementation of the Second Tier retirement plan for state miscellaneous and state industrial members. The report shall first be submitted in April 1986, and annually in April of every year thereafter until April 1990.

SEC. 2. Section 20013.8 of the Government Code is amended to read:

20013.8. Members with at least 10 years of service credit who, in the opinion of the board, had permanently separated from state service prior to July 1, 1985, may make an irrevocable election to be subject to the Second Tier level of benefits provided for in Section 21251.146 for service rendered as a state miscellaneous member and state industrial member.

The board has no duty to locate or notify any permanently separated member or to provide the name or address of any permanently separated member to any person, agency, or entity for the purpose of notifying those members.

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 20022.4 is added to the Government Code, to read:

20022.4. For a university member appointed under a health sciences compensation plan of the university, "compensation" shall not include past or future supplemental payments made pursuant to any health sciences compensation plan.

SEC. 4. Section 20360.5 of the Government Code is amended to read:

20360.5. Persons appointed to the office of the Adjutant General

or Assistant Adjutant General after October 1, 1961, shall have rights to membership as provided in this article for other persons appointed by the Governor and shall have no rights under the retirement benefit provisions of the Military and Veterans Code, except that persons entitled to retirement benefits under the Military and Veterans Code appointed to the office of the Adjutant General or Assistant Adjutant General shall continue to receive military retirement benefits during their term of office.

SEC. 5. Section 20390 of the Government Code is amended to read:

20390. A person ceases to be a member:

(a) Upon retirement, except while participating in reduced worktime for partial service retirement.

(b) If he or she is paid his or her normal contributions, unless payment of contributions is the result of an election pursuant to paragraph (1) of subdivision (b) of Section 20013.7, or pursuant to Section 20013.8, or unless, after reducing the member's credited service by the service applicable to the contributions being withdrawn, the member meets the requirements of Section 20390.1 or if he or she is paid a portion of his or her normal contributions where more than one payment is made, or these contributions are held pursuant to Section 20208. For the purposes of this subdivision, (1) deposit in the United States mail of a warrant drawn in favor of a member, addressed to the latest address of the member on file in the office of this system, constitutes payment to the member of the amount for which the warrant is drawn or (2) electronic fund transfer to the person's bank, savings and loan association or credit union account, constitutes payment to the person of the amount of the warrant of funds electronically transferred.

(c) If the member has less than five years of service credit and no accumulated contributions in the retirement fund at the time of termination of service.

SEC. 6. Section 20450 of the Government Code is amended to read:

20450. Any public agency may participate in and make all or part of its employees members of this system by contract entered into between its governing body and the board pursuant to this part. However, a public agency may not enter into the contract within three years of termination of a previous contract for participation.

SEC. 7. Section 20652.1 of the Government Code is amended to read:

20652.1. For purposes of this article, a member who has been on an unpaid leave of absence or separated from state service for a period of not less than six months shall be considered permanently separated from state service, and the member shall, upon his or her request, be paid his or her accumulated contributions if he or she continues to be in an unpaid leave status through the date the refund is paid.

In the case where a member has been separated from state service

for six or more months and has requested a refund of his or her accumulated contributions, but reenters employment covered by this system prior to receipt of the refund of his or her accumulated contributions, he or she shall nevertheless be paid his or her accumulated contributions.

SEC. 8. Section 20803 of the Government Code is amended to read:

20803. "Local safety service" means state service rendered as a local firefighter, local police officer, county peace officer, local safety officer, or positions defined as local safety member in Sections 20019.3 and 20019.35 except as provided in this article and Article 4 (commencing with Section 20890).

SEC. 9. Section 20894.5 of the Government Code is repealed.

SEC. 10. Section 20894.5 is added to the Government Code, to read:

20894.5. Notwithstanding any other provision of this part, for each member absent without compensation due to military service pursuant to Section 20890, the employer shall contribute an amount equal to the contributions which would have been made by the employer and the employee during the absence. The employer's contribution pursuant to this section shall be based upon the member's compensation earnable and the contribution rates in effect at the commencement of the absence, provided that: (1) the member returns to state service within six months after receiving a discharge from military service other than dishonorable; or (2) the member returns to state service within six months after completion of any period of rehabilitation offered by the United States government, except that for purposes of this section, rehabilitation solely for education purposes shall not be considered; or (3) the member is granted a leave of absence from the state employer as of the same date the member was reinstated to that employment from military service, provided that the member returns to state service at the conclusion of the leave; or (4) the member is placed on a state civil service reemployment list within six months after receiving a discharge from military service other than dishonorable and returns to state service upon receipt of an offer of reemployment; or (5) the member retires from this system for service or disability during the course of an absence from state service for military service; or (6) the member dies during the course of an absence from state service for military service.

Any member on leave from state service for military service who elects to continue contributing to this system shall be entitled to a refund of those contributions upon request.

Any member who withdrew contributions during or in contemplation of his or her military service is entitled to the benefits of this section irrespective of whether the contributions are redeposited. The rate for future contributions for the member shall be based upon the member's age at the time the member commenced a leave of absence from state service for service in the

military.

The employer's contribution pursuant to this section may be made either in lump sum, or it may be included in its monthly contribution as adjusted by inclusion of the amount due in the employer rate at the valuation most near in time to the event causing the employer's liability for such contributions. The employer's contributions pursuant to this section shall be used solely for the purpose of paying retirement and death benefits and shall not be paid to the member whose contributions are refunded to him or her pursuant to Section 20652.

This section shall not apply to persons who are granted a leave of absence from state service for purposes of service with the Merchant Marines of the United States, or for purposes of serving on ships operated by or for the United States government other than ships operated by any branch of the armed forces of the United States, or for purposes of service with the Federal Bureau of Investigation, notwithstanding Section 20890.

SEC. 11. Section 20932 of the Government Code is amended to read:

20932. A member electing to receive credit for public service shall contribute in a lump sum or by installment payments over such period and subject to such minimum payments as may be prescribed by regulations of the board an amount equal to (a) the contributions he or she would have made to the system for the period for which current service credit is granted, assuming that the rate of contribution under his or her employer's formula at the rate age applicable to him or her at the beginning of his or her first subsequent period of service in membership and his or her compensation earnable on that date had applied to him or her during the period for which credit is granted, plus (b) such added contribution as may be specially required under this article as a condition for crediting particular public service, plus (c) the interest which would have accrued to those contributions if they had been deposited at the beginning date of his or her first subsequent period of service in membership, from that date until the date of completion of payments assuming that the annual interest rate in effect on date of election had been in effect throughout that period. The beginning date of the first subsequent period of service for purposes of computation of contribution and interest shall be deemed to be the end of the period of service credited for a member who has no subsequent return to service or has elected to become subject to Sections 21251.146 and 21251.147.

All contributions of a member under this article shall be considered to be and shall be administered as normal contributions.

SEC. 12. Section 21211 of the Government Code is amended to read:

21211. If no beneficiary designation is in effect on the date of death, any benefit payable shall be paid to the survivors of the member in the following order:

(a) The member's spouse.
(b) The member's children.
(c) The member's parents.
(d) The member's brothers and sisters.

Payment shall be to the members of the group entitled, who are living on the date of death of the member, share and share alike. No payment shall be made to persons in any group if at the date of death there are living persons in any group preceding it.

If there is no effective beneficiary designation and there are no survivors entitled to the benefit under this section the benefit shall be paid to the estate of the member.

Payment pursuant to the board's determination in good faith upon evidence satisfactory to it of the existence, identity or other facts relating to entitlement of persons under this section shall constitute a complete discharge of and release of the system from liability for the benefit so paid.

CHAPTER 1165

An act to amend Section 14115 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 26, 1987]

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

SECTION 1. Section 14115 of the Welfare and Institutions Code is amended to read:

14115. (a) Bills for service under this chapter shall be submitted not more than two months after the month in which the service is rendered, and shall be in the form prescribed by the director, except that in the event the patient does not identify himself to the provider as a Medi-Cal beneficiary, the provider shall be entitled to submit his statement at any time within 60 days after that date certified by the provider as the date the patient was first identified as a Medi-Cal beneficiary, provided, however, that such date certified by the provider as the date the patient was first so identified shall not be later than one year after the month in which the service was rendered. Whenever a provider has submitted a claim to a liable third party, the provider shall have one year after the month in which the service is rendered for submission of the bill. Whenever a legal proceeding has been commenced with either an administrative or judicial tribunal concerning a bill for which the provider is attempting to obtain payment from a liable third party, the provider shall have one year in which to submit the bill after the month in which the services have been rendered. A copy of the pleadings shall be conclusively presumed to be sufficient evidence of

commencement of a legal proceeding.

(b) Further, the director may, where he finds that delay in the submission of bills was caused by circumstances beyond the control of the provider, extend the period for submission of bills for a period not to exceed one year.

(c) For the purposes of this section, identification of a patient as a Medi-Cal beneficiary shall mean presentation to the provider of the patient's Medi-Cal card.

(d) No further follow-up shall be required, after the provider receives acknowledgement of a claim inquiry from the fiscal intermediary, until the claim is paid or denied, except that this period shall not exceed one year from the date of acknowledgement. On or after one year from the date of acknowledgement the next level of appeal shall be utilized by the provider.

SEC. 2. The amendment of Section 14115 of the Welfare and Institutions Code by Section 1 of this act shall not be construed to change any prior interpretation or court decision regarding that section.

CHAPTER 1166

An act to amend Sections 15731, 15740, 15745, and 15753 of, and to add Sections 5328.5, 15753.5, and 15754 to, the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987]

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

SECTION 1. Section 5328.5 is added to the Welfare and Institutions Code, to read:

5328.5. Information and records described in Section 5328 may be disclosed in communications relating to the prevention, investigation, or treatment of elder abuse or dependent adult abuse pursuant to Chapter 11 (commencing with Section 15600) and Chapter 13 (commencing with Section 15750), of Part 3 of Division 9.

SEC. 2. Section 15731 of the Welfare and Institutions Code is amended to read:

15731. On or before November 1, 1988, the department shall submit a report to the Legislature which shall include, but shall not be limited to, all of the following:

(a) A financial report for each model project.

(b) A qualitative and quantitative profile of the model projects and eligible persons receiving services.

(c) A report addressing each of the evaluation components

contained in Section 15730.5.

(d) An assessment of the demand for services and an evaluation of the success the models have in meeting this demand.

(e) Specific identification of any factors which significantly enhance or inhibit the success of these models in protecting vulnerable elderly and dependent adults.

(f) Recommendations for statewide legislative standards for county adult protective services agencies, as appropriate, based on the findings of the report.

At the conclusion of the model projects authorized by this chapter, the department shall submit a final report to the Legislature to update the findings included in the report due November 1, 1988.

SEC. 3. Section 15740 of the Welfare and Institutions Code is amended to read:

15740. Funding for the model projects established pursuant to this chapter shall be provided through the budget process. The department shall use no more than 10 percent of the funds appropriated for purposes of this chapter for administrative costs.

Model project counties shall provide matching funds of 20 percent of project expenditures for each year. Matching funds may be provided through cash or in-kind contributions, including staff, space, equipment, materials, and reasonable administrative services. The provisions permitting in-kind matching of funds are designed to encourage private and public collaboration in the development and delivery of services.

Funds appropriated for purposes of this chapter shall not be expended until the adoption by the department of standards to be met by grantees pursuant to this chapter.

SEC. 4. Section 15745 of the Welfare and Institutions Code is amended to read:

15745. This chapter shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted prior to January 1, 1990, deletes or extends that date.

SEC. 5. Section 15753 of the Welfare and Institutions Code is amended to read:

15753. Adult protective services may include, but are not limited to, investigations, needs assessment, the use of a multidisciplinary personnel team in order to obtain information and records necessary for adult protective services, a system in which reporting of abuse can occur on a 24-hour basis, emergency shelter, and adult respite care.

SEC. 6. Section 15753.5 is added to the Welfare and Institutions Code, to read:

15753.5. "Multidisciplinary personnel team" means any team of two or more persons who are trained in the prevention, identification, and treatment of abuse of elderly or dependent persons and who are qualified to provide a broad range of services related to abuse of elderly or dependent persons. The team may include, but is not limited to:

(a) Psychiatrists, psychologists, or other trained counseling personnel.

(b) Police officers or other law enforcement agents.

(c) Medical personnel with sufficient training to provide health services.

(d) Social workers with experience or training in prevention of abuse of elderly or dependent persons.

SEC. 7. Section 15754 is added to the Welfare and Institutions Code, to read:

15754. (a) Notwithstanding any provision of law governing the disclosure of information and records, persons who are trained and qualified to serve on multidisciplinary personnel teams may disclose to one another information and records which are relevant to the prevention, identification, or treatment of abuse of elderly or dependent persons.

(b) Except as provided in subdivision (a), any personnel of the multidisciplinary team that receives information pursuant to this chapter, shall be under the same obligations and subject to the same confidentiality penalties as the person disclosing or providing that information. The information obtained shall be maintained in a manner that ensures the maximum protection of privacy and confidentiality rights.

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 apply the requirements of this act to the administration of the model projects in the most economical and efficient manner, it is necessary that this act take effect immediately.

CHAPTER 1167

An act to amend Sections 25135.1 and 25135.7 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987]

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

SECTION 1. Section 25135.1 of the Health and Safety Code is amended to read:

25135.1. (a) For purposes of this article, and unless the context indicates otherwise, "county" means a county that notifies the department that it will prepare a county hazardous waste management plan in accordance with this article and receives a grant pursuant to Section 25135.8. "County" also means any city, or two or more cities within a county acting jointly, which notifies the

department that it will prepare a county hazardous waste management plan in accordance with subdivision (c).

(b) A county may, at its discretion, and after notification to the department, prepare a county hazardous waste management plan for the management of all hazardous waste produced in the county. A county hazardous waste management plan prepared pursuant to this article shall serve in lieu of the hazardous waste portion of the county solid waste plan provided for in Article 2 (commencing with Section 66780) of Chapter 2 of Title 7.3 of the Government Code. The county hazardous waste management plan shall be prepared in cooperation with the affected cities in the county and the advisory committee appointed pursuant to Section 25135.2, in accordance with the guidelines adopted by the department pursuant to Section 25135.5, and in accordance with the schedule specified in Section 25135.6.

(c) On or before March 31, 1987, every county shall notify the department and the cities within the county whether the county has elected to prepare a county hazardous waste management plan pursuant to this article. A city, or two or more cities acting jointly, located within a county which elects not to prepare a county hazardous waste management plan or which fails to make an election, on or before March 31, 1987, to prepare a plan, may, at the city's or cities' discretion, elect to undertake the preparation of the plan. The city or cities shall be deemed to be acting in place of the county for purposes of this article and may apply for funding to pay the cost of preparing the plan pursuant to subdivision (c) of Section 25135.8. However, the city or cities may not receive funding pursuant to subdivision (c) of Section 25135.8, unless the proposal to prepare a county hazardous waste management plan by the city or cities is approved by a majority of the cities within the county which contain a majority of the population of the incorporated area of the county and the proposal is received by the department on or before June 30, 1987.

(d) The county hazardous waste management plan authorized by subdivision (b) or (c) shall serve as the primary planning document for hazardous waste management in the county and shall be prepared as a useful informational source for local government and the public. The plan shall include, but is not limited to, all of the following elements:

(1) An analysis of the hazardous waste stream generated in the county, including an accounting of the volumes of hazardous wastes produced in the county, by type of waste, and estimates of the expected rates of hazardous waste production until 1994, by type of waste.

(2) A description of the existing hazardous waste facilities which treat, handle, recycle, and dispose of the hazardous wastes produced in the county, including a determination of the existing capacity of each facility.

(3) An analysis of the potential in the county for recycling

hazardous waste and for reducing the volume and hazard of hazardous waste at the source of generation.

(4) A consideration of the need to manage the small volumes of hazardous waste produced by businesses and households.

(5) A determination of the need for additional hazardous waste facilities to properly manage the volumes of hazardous wastes currently produced or that are expected to be produced during the planning period.

(6) An identification of those hazardous waste facilities that can be expanded to accommodate projected needs and an identification of general areas for new hazardous waste facilities determined to be needed. In lieu of this facility and area identification, the plan may instead include siting criteria to be utilized in selecting sites for new hazardous waste facilities. If siting criteria are included in the county hazardous waste management plan, the plan shall also designate general areas where the criteria might be applicable.

(7) A statement of goals, objectives, and policies for the siting of hazardous waste facilities and the general management of hazardous wastes through the year 2000.

(8) A schedule which describes county and city actions necessary to implement the hazardous waste management plan through the year 2000, including the assigning of dates for carrying out the actions.

(e) In addition to the elements of the plan required by subdivision (d), a county may include a description of any additional local programs which the county determines to be necessary to provide for the proper management of hazardous wastes produced in the county. These programs may include, but are not limited to, public education, enforcement, surveillance, transportation, and administration.

(f) The inclusion of an element in a county hazardous waste management plan pursuant to subdivision (d) or (e) does not authorize the county to adopt a program which the county is not otherwise authorized to adopt under any other provision of law.

SEC. 2. Section 25135.7 of the Health and Safety Code is amended to read:

25135.7. (a) A county shall submit the final county hazardous waste management plan adopted by the county to the department for review and approval on or before October 1, 1988. If a county shows the department that the county has made substantial progress towards completing the county hazardous waste management plan and needs more time to complete the plan, the department may extend this date to February 1, 1989. The department shall, on or before December 31, 1988, or on or before April 30, 1989, if the county is given a time extension, review and either approve or disapprove the county hazardous waste management plan. The department shall approve the county hazardous waste management plan if the department makes all of the following determinations:

(1) The plan substantially complies with the guidelines for the

preparation of hazardous waste management plans adopted by the department.

(2) The plan applies the methods, techniques, and policies established by the department to analyze the waste stream and to determine whether there is a need for additional or expanded hazardous waste facilities to safely manage and properly dispose of the hazardous waste generated within the county.

(3) If the plan contains a determination pursuant to paragraph (5) of subdivision (d) of Section 25135.1 that there is a need for additional or expanded hazardous waste facilities, the plan proposes general areas, or, as determined appropriate by the county, proposes specific sites which may be suitable locations for a facility. However, if the plan instead contains siting criteria for selecting sites for new hazardous waste facilities, the plan shall propose general areas where the criteria might be applicable.

(4) If the county preparing the plan has entered into a formal agreement with other counties to manage hazardous waste, the agreement is documented.

(b) Within 180 days after the department approves a county hazardous waste management plan, the county shall either incorporate the applicable portions of the plan, by reference, into the county's general plan, or enact an ordinance which requires that all applicable zoning, subdivision, conditional use permit, and variance decisions are consistent with the portions of the county hazardous waste management plan which identify specific sites or siting criteria for hazardous waste facilities.

(c) Within 180 days after receiving written notification from the department that it has approved the county hazardous waste management plan, each city within that county shall do one of the following:

(1) Adopt a city hazardous waste management plan containing all of the elements required by subdivision (d) of Section 25135.1 which shall be consistent with the approved county hazardous waste management plan.

(2) Incorporate the applicable portions of the approved county plan, by reference, into the city's general plan.

(3) Enact an ordinance which requires that all applicable zoning, subdivision, conditional use permit, and variance decisions are consistent with the portions of the approved county plan which identify general areas or siting criteria for hazardous waste facilities.

(d) This section does not limit the authority of any city to attach appropriate conditions to the issuance of any land use approval for a hazardous waste facility in order to protect the public health, safety, or welfare, and does not limit the authority of a city to establish more stringent planning requirements or siting criteria than those specified in the county hazardous waste management plan.

(e) Any amendment to an adopted county hazardous waste management plan requires the approval of the department, the

county, and a majority of the cities within the county which contain a majority of the population of the incorporated area of the county.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1168

An act to amend Section 13142.4 of, and to repeal Section 13254 of, the Health and Safety Code, relating to the State Fire Marshal.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987]

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

SECTION 1. Section 13142.4 of the Health and Safety Code is amended to read:

13142.4. The State Fire Marshal, with policy guidance and advice from the State Board of Fire Services, shall:

(a) Establish and validate recommended minimum standards for fire protection personnel and fire protection instructors at all career levels.

(b) Develop course curricula for arson, fire technology, and apprenticeship training for use in academies, colleges, and other educational institutions.

(c) Develop, validate, update, copyright, and maintain security over a complete series of promotional examinations based on the minimum standards established pursuant to subdivision (a).

(d) Have the authority to make the examinations developed pursuant to subdivision (c) available to any agency of the state, to any political subdivision within the state, or to any other testing organization, as he or she deems appropriate.

(e) Jointly, with the California Professional Firefighters, promote participation in, sponsor, and administer the California Firefighter Joint Apprenticeship Program as the preemployment recruitment, selection, and training system to be utilized for entry level firefighters.

(f) Establish advisory committees or panels, as necessary, to assist the State Fire Marshal in carrying out his or her functions under this section.

(g) Establish fees necessary to implement this section.

(h) Promote, sponsor, and administer the California Fire Academy System.

(i) Establish procedures for seeking, accepting, and administering gifts and grants for use in implementing the intents and purposes of the California Fire and Arson Training Act.

(j) This section shall be known, and may be cited, as the California Fire and Arson Training Act.

(k) The recommended minimum standards established pursuant to subdivision (a) shall not apply to any agency of the state or any agency of any political subdivision within the state unless that agency elects to be subject to these standards.

SEC. 1.5. Section 13142.4 of the Health and Safety Code is amended to read:

13142.4. The State Fire Marshal, with policy guidance and advice from the State Board of Fire Services, shall:

(a) Establish and validate recommended minimum standards for fire protection personnel and fire protection instructors at all career levels.

(b) Develop course curricula for arson, fire technology, and apprenticeship training for use in academies, colleges, and other educational institutions.

(c) Develop, validate, update, copyright, and maintain security over a complete series of promotional examinations based on the minimum standards established pursuant to subdivision (a).

(d) Have the authority to make the examinations developed pursuant to subdivision (c) available to any agency of the state, to any political subdivision within the state, or to any other testing organization, as he or she deems appropriate.

(e) Jointly, with the California Professional Firefighters, promote participation in, sponsor, and administer the California Firefighter Joint Apprenticeship Program as the preemployment recruitment, selection, and training system to be utilized for entry level firefighters.

(f) Establish advisory committees or panels, as necessary, to assist the State Fire Marshal in carrying out his or her functions under this section.

(g) Establish any fees which are necessary to implement this section. However, the State Fire Marshal shall not establish or collect any fees for training classes provided by the State Fire Marshal to fire protection personnel relating to state laws and regulation which local fire services are authorized or required to enforce.

(h) Promote, sponsor, and administer the California Fire Academy System.

(i) Establish procedures for seeking, accepting, and administering gifts and grants for use in implementing the intents and purposes of the California Fire and Arson Training Act.

(j) This section shall be known, and may be cited, as the California Fire and Arson Training Act.

(k) The recommended minimum standards established pursuant

to subdivision (a) shall not apply to any agency of the state or any agency of any political subdivision within the state unless that agency elects to be subject to these standards.

SEC. 2. Section 13254 of the Health and Safety Code is repealed.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 13142.4 of the Health and Safety Code proposed by both this bill and AB 216. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1988, (2) each bill amends Section 13142.4 of the Health and Safety Code, and (3) this bill is enacted after AB 216, in which case Section 1 of this bill shall not become operative.

CHAPTER 1169

An act to amend Section 43.7 of the Civil Code, relating to liability.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987]

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

SECTION 1. Section 43.7 of the Civil Code, as amended by Section 1 of Chapter 669 of the Statutes of 1986, is amended to read:

43.7. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed mental health professional quality assurance committee that is established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, for any act or proceeding undertaken or performed within the scope of the functions of the committee which is formed to review and evaluate the adequacy, appropriateness, or effectiveness of the care and treatment planned for, or provided to, mental health patients in order to improve quality of care by mental health professionals if the committee member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after the reasonable effort to obtain facts.

(b) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society, any member of a duly appointed committee of a medical specialty society, or any member of a duly appointed committee of a state or local professional society, or duly appointed member of a committee of a professional staff of a licensed hospital (provided the professional staff operates pursuant to written bylaws that have been approved by the governing board of the hospital), for any act or proceeding undertaken or performed within the scope of the functions of the committee which is formed to maintain the

professional standards of the society established by its bylaws, or any member of any peer review committee whose purpose is to review the quality of medical, dental, dietetic, chiropractic, optometric, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, veterinarians, or psychologists which committee is composed chiefly of physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, veterinarians, or psychologists for any act or proceeding undertaken or performed in reviewing the quality of medical, dental, dietetic, chiropractic, optometric, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, veterinarians, or psychologists or any member of the governing board of a hospital in reviewing the quality of medical services rendered by members of the staff if the professional society, committee, or board member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he, she, or it acts, and acts in reasonable belief that the action taken by him, her, or it is warranted by the facts known to him, her, or it after the reasonable effort to obtain facts. "Professional society" includes legal, medical, psychological, dental, dental hygiene, dietetic, accounting, optometric, podiatric, pharmaceutic, chiropractic, physical therapist, veterinary, licensed marriage, family, and child counseling, licensed clinical social work, and engineering organizations having as members at least 25 percent of the eligible persons or licentiates in the geographic area served by the particular society. However, if the society has less than 100 members, it shall have as members at least a majority of the eligible persons or licentiates in the geographic area served by the particular society.

"Medical specialty society" means an organization having as members at least 25 percent of the eligible physicians within a given professionally recognized medical specialty in the geographic area served by the particular society.

(c) This section does not affect the official immunity of an officer or employee of a public corporation.

(d) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any physician and surgeon, podiatrist, chiropractor, or attorney who is a member of an underwriting committee of an interindemnity or reciprocal or interinsurance exchange or mutual company for any act or proceeding undertaken or performed in evaluating physicians and surgeons, podiatrists, chiropractors, or attorneys for the writing of professional liability insurance, or any act or proceeding undertaken or performed in evaluating physicians and surgeons or attorneys for the writing of an interindemnity, reciprocal, or interinsurance contract as specified in Section 1280.7 of the Insurance Code, if the evaluating physician and surgeon, podiatrist, chiropractor, or attorney acts without malice, has made a reasonable effort to obtain

the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after a reasonable effort to obtain the facts.

(e) This section shall not be construed to confer immunity from liability on any quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital, the cause of action shall exist as if the preceding provisions of this section had not been enacted.

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. 2. Section 43.7 of the Civil Code, as amended by Section 2 of Chapter 669 of the Statutes of 1986, is amended to read:

43.7. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed mental health professional quality assurance committee that is established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, for any act or proceeding undertaken or performed within the scope of the functions of the committee which is formed to review and evaluate the adequacy, appropriateness, or effectiveness of the care and treatment planned for, or provided to, mental health patients in order to improve quality of care by mental health professionals if the committee member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after the reasonable effort to obtain facts.

(b) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society, any member of a duly appointed committee of a medical specialty society, or any member of a duly appointed committee of a state or local professional society, or duly appointed member of a committee of a professional staff of a licensed hospital (provided the professional staff operates pursuant to written bylaws that have been approved by the governing board of the hospital), for any act or proceeding undertaken or performed within the scope of the functions of the committee which is formed to maintain the professional standards of the society established by its bylaws, or any member of any peer review committee whose purpose is to review the quality of medical, dental, dietetic, chiropractic, optometric, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, veterinarians, or psychologists which committee is

composed chiefly of physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, veterinarians, or psychologists for any act or proceeding undertaken or performed in reviewing the quality of medical, dental, dietetic, chiropractic, optometric, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, veterinarians, or psychologists or any member of the governing board of a hospital in reviewing the quality of medical services rendered by members of the staff if the professional society, committee, or board member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he, she, or it acts, and acts in reasonable belief that the action taken by him, her, or it is warranted by the facts known to him, her, or it after the reasonable effort to obtain facts. "Professional society" includes legal, medical, psychological, dental, dental hygiene, dietetic, accounting, optometric, podiatric, pharmaceutic, chiropractic, physical therapist, veterinary, licensed marriage, family, and child counseling, licensed clinical social work, and engineering organizations having as members at least 25 percent of the eligible persons or licentiates in the geographic area served by the particular society. However, if the society has less than 100 members, it shall have as members at least a majority of the eligible persons or licentiates in the geographic area served by the particular society.

"Medical specialty society" means an organization having as members at least 25 percent of the eligible physicians within a given professionally recognized medical specialty in the geographic area served by the particular society.

(c) This section does not affect the official immunity of an officer or employee of a public corporation.

(d) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any physician and surgeon, podiatrist, or chiropractor who is a member of an underwriting committee of an interindemnity or reciprocal or interinsurance exchange or mutual company for any act or proceeding undertaken or performed in evaluating physicians and surgeons, podiatrists, or chiropractors for the writing of professional liability insurance, or any act or proceeding undertaken or performed in evaluating physicians and surgeons for the writing of an interindemnity, reciprocal, or interinsurance contract as specified in Section 1280.7 of the Insurance Code, if the evaluating physician or surgeon, podiatrist, or chiropractor acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after the reasonable effort to obtain the facts.

(e) This section shall not be construed to confer immunity from liability on any quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and

Institutions Code or hospital. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital, the cause of action shall exist as if the preceding provisions of this section had not been enacted.

(f) This section shall become operative on January 1, 1990.

CHAPTER 1170

An act to amend Section 42001 of, and to add Section 42000.5 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987.]

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

SECTION 1. Section 42000.5 is added to the Vehicle Code, to read:

42000.5. Every person convicted of an infraction for a violation of Section 22350, 22406, or 22407 while operating a bus, motor truck, or truck tractor having three or more axles, or any motor truck or truck tractor drawing any other vehicle, shall be punished by a fine not exceeding one hundred dollars ($100) for a first conviction and not exceeding three hundred dollars ($300) for a second or subsequent conviction.

SEC. 2. Section 42001 of the Vehicle Code is amended to read:

42001. (a) Except as provided in Section 42000.5, 42001.1, 42001.3, 42001.5, 42001.7, 42001.8, or 42001.9, or subdivision (b) or (c) of this section, or Article 2 (commencing with Section 42030), every person convicted of an infraction for a violation of this code or of any local ordinance adopted pursuant to this code shall be punished as follows:

(1) By a fine not exceeding one hundred dollars ($100).

(2) For a second infraction occurring within one year of a prior infraction which resulted in a conviction, a fine not exceeding two hundred dollars ($200).

(3) For a third or any subsequent infraction occurring within one year of two or more prior infractions which resulted in convictions, a fine not exceeding two hundred fifty dollars ($250).

(b) Every person convicted of a misdemeanor violation of Section 2800, 2801, or 2803 insofar as they affect failure to stop and submit to inspection of equipment or for an unsafe condition endangering any person, or Section 2800.1, shall be punished as follows:

(1) By a fine not exceeding fifty dollars ($50) or imprisonment in the county jail not exceeding five days.

(2) For a second conviction within a period of one year, a fine not

exceeding one hundred dollars ($100) or imprisonment in the county jail not exceeding 10 days, or both that fine and imprisonment.

(3) For a third or any subsequent conviction within a period of one year, a fine not exceeding five hundred dollars ($500) or imprisonment in the county jail not exceeding six months, or both that fine and imprisonment.

(c) A pedestrian convicted of an infraction for a violation of this code or of any local ordinance adopted pursuant to this code shall be punished by a fine not exceeding fifty dollars ($50).

CHAPTER 1171

An act to amend Section 1275 of, and to add Section 1275.6 to, the Health and Safety Code, relating to health.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987]

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

SECTION 1. Section 1275 of the Health and Safety Code is amended to read:

1275. (a) The state department shall adopt, amend, or repeal, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of this code, such reasonable rules and regulations as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the state department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any statute of this state including, but not limited to, the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Division 13.

All regulations in effect on December 31, 1973, which were adopted by the State Board of Public Health, the State Department of Public Health, the State Department of Mental Hygiene, or the State Department of Health relating to licensed health facilities shall remain in full force and effect until altered, amended, or repealed by the director or pursuant to Section 25 or other provisions of law.

(b) Notwithstanding this section or any other provision of law, the Office of Statewide Health Planning and Development shall adopt and enforce regulations prescribing building standards for the adequacy and safety of health facility physical plants.

(c) The building standards adopted by the Office of Statewide Health Planning and Development pursuant to subdivision (b) for the adequacy and safety of freestanding physical plants housing outpatient services of a health facility licensed under subdivision (a) or (b) of Section 1250 shall not be more restrictive or comprehensive

than the comparable building standards established, or otherwise made applicable, by the Office of Statewide Health Planning and Development to clinics and other facilities licensed pursuant to Chapter 1 (commencing with Section 1200).

(d) Except as provided in subdivision (f), the licensing standards adopted by the state department under subdivision (a) for outpatient services located in a freestanding physical plant of a health facility licensed under subdivision (a) or (b) of Section 1250 shall not be more restrictive or comprehensive than the comparable licensing standards applied by the state department to clinics and other facilities licensed under Chapter 1 (commencing with Section 1200).

(e) Except as provided in subdivision (f), the state department shall not enforce any standard applicable to outpatient services located in a freestanding physical plant of a health facility licensed pursuant to subdivision (a) or (b) of Section 1250, to the extent that the standard is more restrictive or comprehensive than the comparable licensing standards applied to clinics and other facilities licensed under Chapter 1 (commencing with Section 1200).

(f) All health care professionals providing services in settings authorized by this section shall be members of the organized medical staff of the health facility to the extent medical staff membership would be required for the provision of the services within the health facility. All services shall be provided under the respective responsibilities of the governing body and medical staff of the health facility.

(g) For purposes of this section, "freestanding physical plant" means any building which is not physically attached to a building in which inpatient services are provided.

SEC. 2. Section 1275.6 is added to the Health and Safety Code, to read:

1275.6. (a) A health facility licensed pursuant to subdivision (a) or (b) of Section 1250 may provide in any alternative setting health care services and programs which may be provided by any other provider of health care outside of a hospital building or which are not otherwise specifically prohibited by this chapter. In addition, the state department and the Office of Statewide Health Planning and Development shall adopt and enforce standards which permit the ability of a health facility licensed pursuant to subdivision (a) or (b) of Section 1250 to use its space for alternative purposes.

(b) In adopting regulations implementing this section, and in reviewing an application or other request by a health facility licensed pursuant to subdivision (a) or (b) of Section 1250, pursuant to Section 1265, and subdivision (b) of Section 1276, relating to services provided in alternative settings, the state department may adopt or impose reasonable standards and conditions which promote and protect patient health, safety, security, and quality of health care.

(c) Pending the adoption of regulations referred to in subdivision (b), the state department may condition approval of the alternative

service or alternative setting on reasonable standards consistent with this section and subdivisions (d) and (e) of Section 1275. The state department and the Office of Statewide Health Planning and Development may adopt these standards by mutual agreement with a health facility proposing a service and may, after consultation with appropriate professional and trade associations, establish guidelines for hospitals wishing to institute an alternative service or to provide a service in an alternative setting. Services provided outside of a hospital building under this section shall be subject to the licensing standards, if any, that are applicable to the same or similar service provided by nonhospital providers outside of a hospital building. The intent of this subdivision is to assure timely introduction of safe and efficacious innovations in health care services by providing a mechanism for the temporary implementation and evaluation of standards for alternative services and settings and to facilitate the adoption of appropriate regulations by the state department.

(d) All health care professionals providing services in settings authorized by this section shall be members of the organized medical staff of the health facility to the extent medical staff membership would be required for the provision of the services within the health facility. All services shall be provided under the respective responsibilities of the governing body and medical staff of the health facility. Nothing in this section shall be construed to repeal or otherwise affect Section 2400 of the Business and Professions Code, or to exempt services provided under this section from licensing standards, if any, established by or otherwise applicable to, the same or similar service provided by nonhospital providers outside of a hospital building.

(e) For purposes of this section, "hospital building" shall have the same meaning as that term is defined in Section 15026.

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 1172

An act to amend Section 786 of, and to add Section 728.3 to, the Public Utilities Code, relating to telephone service.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987]

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

SECTION 1. (a) The Legislature finds and declares as follows:

(1) Since the federal American Telephone and Telegraph Company divestiture decree, there has been general public confusion over the changing competitive nature of telephone service in California, and this has included confusion over policies relating to public telephones.

(2) A more competitive public telephone market has given rise to pay telephones owned and operated by other than telephone corporations, long distance credit-only telephones, and greater emphasis on revenue-generating considerations in the location and placement of telephones available for public use.

(b) It is, therefore, the intent of the Legislature, in amending Section 786 of the Public Utilities Code, to encourage continued consideration of public safety and need in the location and placement of public telephones and to inform telephone subscribers and the public of the availability of public telephone service and the best manner in which the public may contribute input concerning placement and removal of public telephones based on public safety and need.

SEC. 2. Section 728.3 is added to the Public Utilities Code, to read:

728.3. (a) No telephone corporation operating within a service area shall remove any public telephone unless it has posted on the public telephone for not less than 30 days a notice, in a manner and form approved by the commission, indicating that the public telephone is to be removed and containing the appropriate telephone number of the commission which a customer may call for further information.

(b) This section shall not apply when a public telephone is removed for public safety or public nuisance purposes or at the request of the owner or lessee of the property on which the public telephone is located.

SEC. 3. Section 786 of the Public Utilities Code is amended to read:

786. (a) On or before March 1, 1984, and annually thereafter, every telephone corporation operating within a service area shall issue to each of its residential subscribers, in a manner and form approved by the commission, a listing of the residential telephone services it provides, the rates or charges for those services, and the

state or federal regulatory agency or agencies responsible for regulation of those services.

(b) On or before March 1, 1988, and annually thereafter, every telephone corporation operating within a service area providing public telephone service shall provide to each of its residential subscribers, in a manner and form approved by the commission, a description of that public telephone service and the telephone corporation's policies for providing that service, which shall include policies of public need and safety. The description shall also specify how a customer or subscriber can contact the telephone corporation by telephone or mail, or both, for additional information concerning these public telephone policies or for assistance regarding a specific public telephone. The commission shall require that this information be published separately from, but transmitted to subscribers together with, the information specified in subdivision (a).

This subdivision does not apply to any corporation or person which owns or operates coin-activated telephone equipment available for public use but which is not a telephone corporation.

(c) Every charge imposed on business or residential telephone subscribers in response to rules or regulations of the Federal Communications Commission shall be shown separately from other charges on a subscriber's billing statement. Every telephone corporation operating within a service area shall do either of the following:

(1) Identify these charges, by asterisk or other means, with the following phrase:

THIS CHARGE IS (or THESE CHARGES ARE) IMPOSED BY ACTION OF THE FEDERAL COMMUNICATIONS COMMISSION.

(2) Include in the subscriber's billing statement a listing of the total charges imposed pursuant to tariff of the Federal Communications Commission identified with the following phrase:

TOTAL CHARGES IMPOSED BY ACTION OF THE FEDERAL COMMUNICATIONS COMMISSION.

The billing statement shall also provide the address and telephone number of the Federal Communications Commission to which inquiries may be directed.

(d) The commission shall, by rule or order, specify methods for compliance with this section, which shall include all of the following:

(1) An explanation of the configuration of telecommunications services in California following implementation of the final decision of the United States district court for the District of Columbia circuit in the case of United States v American Telephone and Telegraph Company (552 F. Supp. 131) decided on August 19, 1982, and the names, addresses, and telephone numbers of the regulatory agencies responsible for the regulation of intrastate and interstate telephone service.

(2) A general description of the services provided by the telephone corporation or telecommunications provider issuing the

explanation, how those services may be obtained, and a notice that other providers are available.

(3) A description of billing charges which may appear on the telephone corporation's or the telecommunications provider's billing statements.

(4) Procedures the subscribers, including subscribers equipped with telephone devices for the handicapped, may follow to protest items billed to the subscriber, and how to contact the telephone corporation or the telecommunications provider concerning those charges.

(e) This section shall remain in effect only 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. 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 1173

An act to amend Sections 2075, 4938, 4940, 4941, 4945, 4967, and 4970 of the Business and Professions Code, relating to acupuncture, and making an appropriation therefor.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987.]

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

SECTION 1. Section 2075 of the Business and Professions Code is amended to read:

2075. The performance of acupuncture by a certified acupuncturist or other licentiate legally authorized to practice acupuncture within his or her scope of practice or a person licensed or certified in another state to perform acupuncture or other forms of traditional oriental medicine, alone or in conjunction with other forms of traditional oriental medicine, when carried on in a program affiliated with and under the jurisdiction of an approved medical school or approved acupuncture school, for the primary purpose of scientific investigation of acupuncture, shall not be in violation of this chapter, but those procedures shall be carried on only under the supervision of a licensed physician and surgeon.

Any medical school or approved acupuncture school conducting research into acupuncture under this section shall report to the Legislature annually on the fifth legislative day of the regular session of the Legislature concerning the results of that research, the

suitability of acupuncture as a therapeutic technique, and performance standards for persons who perform acupuncture.

SEC. 2. Section 4938 of the Business and Professions Code is amended to read:

4938. The committee shall issue a license to practice acupuncture to any person who makes an application and meets the following requirements:

(a) Is at least 18 years of age.

(b) Furnishes satisfactory evidence of completion of (1) an educational and training program or (2) a tutorial program in the practice of an acupuncturist which is approved by the committee or (3) in the case of an applicant who has completed education and training outside the United States or Canada, documented educational training and clinical experience which meets the standards established pursuant to Sections 4939 and 4941.

(c) Passes an examination administered by the committee which tests the applicant's ability, competency, and knowledge in the practice of an acupuncturist. The examination shall include a practical examination of the skills required to competently engage in such practice. Such examination shall be prepared and administered in accordance with regulations adopted by the committee.

(d) Is not subject to denial pursuant to Division 1.5 (commencing with Section 475).

(e) Completes a clinical internship training program approved by the committee. The clinical internship training program shall not exceed nine months in duration and shall be located in a clinic in this state, which is approved by the committee pursuant to Section 4939. The length of the clinical internship shall depend upon the grades received in the examination and the clinical training already satisfactorily completed by the individual prior to taking the examination. On and after January 1, 1987, individuals with 800 or more hours of documented clinical training shall be deemed to have met this requirement. The purpose of the clinical internship training program shall be to assure a minimum level of clinical competence.

Each applicant who qualifies for a license shall pay, as a condition precedent to its issuance and in addition to other fees required, the initial licensure fee.

SEC. 3. Section 4940 of the Business and Professions Code is amended to read

4940. (a) In approving tutorial programs under Section 4939, the committee may approve programs served under an approved supervising acupuncturist.

(b) An acupuncturist shall be approved to supervise a trainee, provided the supervisor meets the following conditions:

(1) Is certified to practice acupuncture in this state and that certification is current, valid, and has not been suspended or revoked or otherwise subject to disciplinary action.

(2) Has filed an application with the committee.

(3) Files with the committee the name of each trainee to be

trained or employed and a training program satisfactory to the committee.

(4) Does not train or employ more than two acupuncture trainees at any one time.

(5) Has at least 10 years of experience practicing as an acupuncturist since the date of certification or licensure of the supervisor, or has otherwise 10 years of experience in the independent practice of acupuncture in a jurisdiction which does not require the certification or licensure of acupuncturists.

(6) Is found by the committee to have the knowledge necessary to educate and train the trainee in the practice of an acupuncturist.

The amendments made to this section at the 1987 portion of the 1987–88 Regular Session of the Legislature shall not affect the approval of any supervising acupuncturist which has been issued prior to the effective date of those amendments.

SEC. 4. Section 4941 of the Business and Professions Code is amended to read:

4941. In reviewing applications for certification based upon the completion of a tutorial program in acupuncture, the committee may provide that credit is granted for relevant prior training and experience when that training or experience otherwise meets the standards set by the committee.

SEC. 5. Section 4945 of the Business and Professions Code is amended to read:

4945. (a) The committee shall establish standards for continuing education for acupuncturists.

(b) The committee shall require each acupuncturist to complete 30 hours of continuing education every two years as a condition for renewal of his or her certificate. A provider of continuing education shall apply to the committee for approval to offer continuing education courses for credit toward this requirement on a form developed by the committee, shall pay a fee covering the cost of approval and for the monitoring of the provider by the committee and shall set forth the following information on the application:

(1) Course content.

(2) Test criteria.

(3) Hours of continuing education credit requested for the course.

(4) Experience and training of instructors.

(5) Other information as required by the committee.

(6) That interpreters or bilingual instruction will be made available, when necessary.

(c) Licensees residing out of state or out of the country shall comply with the continuing education requirements.

(d) Providers of continuing education shall be monitored by the committee as determined by the committee.

SEC. 6. Section 4967 of the Business and Professions Code is amended to read:

4967. A person who fails to renew his or her certificate within five years after its expiration may not renew it, and it may not be

restored, reissued, or reinstated thereafter, but that person may apply for and obtain a new certificate if he or she meets all of the following requirements:

(a) Has not committed any acts or crimes constituting grounds for denial of certification under Division 1.5 (commencing with Section 475).

(b) Takes and passes the examination, if any, which would be required of him or her if an initial application for certification was being made, or otherwise establishes to the satisfaction of the committee that, with due regard for the public interest, he or she is qualified to practice as an acupuncturist.

(c) Pays all of the fees that would be required if an initial application for certification was being made. The committee may provide for the waiver or refund of all or any part of an examination fee in those cases in which a certificate is issued without an examination pursuant to this section.

SEC. 7. Section 4970 of the Business and Professions Code is amended to read:

4970. The amount of fees prescribed for certified acupuncturists shall be those set forth in this section unless a lower fee is fixed by the committee in accordance with Section 4972:

(a) The application fee shall be seventy-five dollars ($75).

(b) The examination and reexamination fees shall be two hundred dollars ($200).

(c) The initial certification fee shall be three hundred twenty-five dollars ($325), except that if the certificate will expire less than one year after its issuance, then the initial certification fee shall be an amount equal to 50 percent of the initial certification fee.

(d) The biennial renewal fee shall be three hundred twenty-five dollars ($325) and in the event a lower fee is fixed by the committee, shall be an amount sufficient to support the functions of the board and committee in the administration of this chapter.

(e) The delinquency fee is twenty-five dollars ($25).

(f) The application fee for the approval of a school or college under Section 4939 shall be three thousand dollars ($3,000).

(g) The duplicate wall certificate fee is an amount equal to the cost to the committee for the issuance of the duplicate certificate.

(h) The duplicate renewal receipt fee is ten dollars ($10).

(i) The endorsement fee is ten dollars ($10).

(j) The fee for a duplicate certificate for an additional office location as required under Section 4961 shall be fifteen dollars ($15).

CHAPTER 1174

An act to amend Sections 11054, 11055, 11351.5, 11366.5, 11366.6, 11370.4, and 11470 of, and to add Section 11007 to, the Health and Safety Code, and to amend Sections 1203.07 and 1203.073 of the Penal Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987.]

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

SECTION 1. Section 11007 is added to the Health and Safety Code, to read:

11007. "Controlled substance," unless otherwise specified, means a drug, substance, or immediate precursor which is listed in any schedule in Section 11054, 11055, 11056, 11057, or 11058.

SEC. 1.5. Section 11054 of the Health and Safety Code is amended to read:

11054. (a) The controlled substances listed in this section are included in Schedule I.

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

(1) Acetylmethadol.
(2) Allylprodine.
(3) Alphacetylmethadol.
(4) Alphameprodine.
(5) Alphamethadol.
(6) Benzethidine.
(7) Betacetylmethadol.
(8) Betameprodine.
(9) Betamethadol.
(10) Betaprodine.
(11) Clonitazene.
(12) Dextromoramide.
(13) Diampromide.
(14) Diethylthiambutene.
(15) Difenoxin.
(16) Dimenoxadol.
(17) Dimepheptanol.
(18) Dimethylthiambutene.
(19) Dioxaphetyl butyrate.
(20) Dipipanone.
(21) Ethylmethylthiambutene.
(22) Etonitazene.

(23) Etoxeridine.
(24) Furethidine.
(25) Hydroxypethidine.
(26) Ketobemidone.
(27) Levomoramide.
(28) Levophenacylmorphan.
(29) Morpheridine.
(30) Noracymethadol.
(31) Norlevorphanol.
(32) Normethadone.
(33) Norpipanone.
(34) Phenadoxone.
(35) Phenampromide.
(36) Phenomorphan.
(37) Phenoperidine.
(38) Piritramide.
(39) Proheptazine.
(40) Properidine.
(41) Propiram.
(42) Racemoramide.
(43) Tilidine.
(44) Trimeperidine.
(45) Any substance which contains any quantity of acetylfentanyl (N-[1-phenethyl-4-piperidinyl] acetanilide) or a derivative thereof.
(46) Any substance which contains any quantity of the thiophene analog of acetylfentanyl (N-[1-[2-(2-thienyl)ethyl]-4-piperidinyl] acetanilide) or a derivative thereof.
(47) 1-Methyl-4-Phenyl-4-Propionoxypiperidine (MPPP).
(48) 1-(2-Phenethyl)-4-Phenyl-4-Acetyloxypiperidine (PEPAP).

(c) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:
(1) Acetorphine.
(2) Acetyldihydrocodeine.
(3) Benzylmorphine.
(4) Codeine methylbromide.
(5) Codeine-N-Oxide.
(6) Cyprenorphine.
(7) Desomorphine.
(8) Dihydromorphine.
(9) Drotebanol.
(10) Etorphine (except hydrochloride salt).
(11) Heroin.
(12) Hydromorphinol.
(13) Methyldesorphine.
(14) Methyldihydromorphine.
(15) Morphine methylbromide.

(16) Morphine methylsulfonate.
(17) Morphine-N-Oxide.
(18) Myrophine.
(19) Nicocodeine.
(20) Nicomorphine.
(21) Normorphine.
(22) Pholcodine.
(23) Thebacon.

(d) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):

(1) 4-bromo-2,5 dimethoxy-amphetamine — Some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA.

(2) 2,5-dimethoxyamphetamine — Some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA.

(3) 4-methoxyamphetamine — Some trade or other names: 4-methoxy-alpha-methylphenethylamine, paramethoxyamphetamine, PMA.

(4) 5-methoxy-3,4-methylenedioxy-amphetamine.

(5) 4-methyl-2,5-dimethoxy-amphetamine — Some trade or other names: 4-methyl-2,5 dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP".

(6) 3, 4-methylenedioxy amphetamine.

(7) 3,4,5-trimethoxy amphetamine.

(8) Bufotenine — Some trade or other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5 indolol; N,N-dimethylserolonin, 5-hydroxy-N,N-dimethyltryptamine; mappine.

(9) Diethyltrypatamine — Some trade or other names: N,N-Diethyltryptamine; DET.

(10) Dimethyltryptamine — Some trade or other names: DMT.

(11) Ibogaine — Some trade or other names: 7-Ethyl-6,6beta, 7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2] azepino [5,4-b] indole; Tabernanthe iboga.

(12) Lysergic acid diethylamide.

(13) Marijuana.

(14) Mescaline.

(15) Peyote — Meaning all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts (interprets 21 U.S.C. Sec. 812(c), Schedule 1(c)(12)).

(16) N-ethyl-3-piperidyl benzilate.
(17) N-methyl-3-piperidyl benzilate.
(18) Psilocybin.
(19) Psilocyn.
(20) Tetrahydrocannabinols. Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: delta 1 cis or trans tetrahydrocannabinol, and their optical isomers; delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; delta 3,4 cis or trans tetrahydrocannabinol, and its optical isomers.

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered).

(21) Ethylamine analog of phencyclidine — Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.

(22) Pyrrolidine analog of phencyclidine — Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP.

(23) Thiophene analog of phencyclidine — Some trade or other names: 1-[1-(2 thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP.

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

(1) Mecloqualone.
(2) Methaqualone.

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

(1) Cocaine base.
(2) Fenethylline, including its salts.
(3) N-Ethylamphetamine, including its salts.

SEC. 2. Section 11055 of the Health and Safety Code is amended to read:

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

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

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

(A) Raw opium.

(B) Opium extracts.

(C) Opium fluid extracts.

(D) Powdered opium.

(E) Granulated opium.

(F) Tincture of opium.

(G) Apomorphine.

(H) Codeine.

(I) Ethylmorphine.

(J) Hydrocodone.

(K) Hydromorphone.

(L) Metopon.

(M) Morphine.

(N) Oxycodone.

(O) Oxymorphone.

(P) Thebaine.

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

(3) Opium poppy and poppy straw.

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

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

(6) Cocaine, except as specified in Section 11054.

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

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

(1) Alfentanyl.

(2) Alphaprodine.

(3) Anileridine.

(4) Bezitramide.

(5) Bulk dextropropoxyphene (nondosage forms).

(6) Dihydrocodeine.

(7) Diphenoxylate.

(8) Fentanyl.

(9) Isomethadone.

(10) Levomethorphan.

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

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

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

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

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

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

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

(4) Secobarbital.

(5) Glutethimide.

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

(1) Immediate precursor to amphetamine and methamphetamine:

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

(2) Immediate precursors to phencyclidine (PCP):

(A) 1-phenylcyclohexylamine.

(B) 1-piperidinocyclohexane carbonitrile (PCC).

(g) Hallucinogenic substances. Any of the following hallucinogenic substances: dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the federal Food and Drug Administration.

SEC. 3. Section 11351.5 of the Health and Safety Code is amended to read:

11351.5. Except as otherwise provided in this division, every person who possesses for sale or purchases for purposes of sale cocaine base which is specified in paragraph (1) of subdivision (f) of Section 11054, shall be punished by imprisonment in the state prison for a period of three, four, or five years.

SEC. 4. 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 base as specified in paragraph (1) of subdivision (f) of Section 11054, cocaine as specified in paragraph (6) of subdivision (b) of Section 11055, heroin, phencyclidine, amphetamine, methamphetamine, or lysergic acid diethylamide 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 subdivision (a) after previously being convicted of a violation of subdivision (a) 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. 5. Section 11366.6 of the Health and Safety Code is amended 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, manufacture, or possess for sale any amount of cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, cocaine as specified in paragraph (6) of subdivision (b) of Section 11055, heroin, phencyclidine, amphetamine, methamphetamine, or lysergic acid diethylamide shall be punished by imprisonment in the state prison for three, four, or five years.

SEC. 6. Section 11370.4 of the Health and Safety Code is amended to read:

11370.4. (a) Any person convicted of a violation of Section 11351, 11351.5, or 11352 with respect to a substance containing heroin, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 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) Any person convicted of a violation of Section 11378, 11378.5, 11379, or 11379.5 with respect to a substance containing methamphetamine, amphetamine, phencyclidine (PCP) and its analogs shall receive an additional term as follows:

(1) Where the substance exceeds three pounds by weight, or nine gallons by liquid volume, the person shall receive an additional term of three years.

(2) Where the substance exceeds 10 pounds by weight, or 33⅓ gallons by liquid volume, the person shall receive an additional term of five years.

(3) Where the substance exceeds 25 pounds by weight, or 62½ gallons by liquid volume, the person shall receive an additional term of 10 years.

In computing the quantities involved in this subdivision, plant or vegetable material seized shall not be included.

(c) The additional terms provided in this section shall not be imposed unless the allegation that the weight of the substance containing heroin, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, cocaine as specified in paragraph (6)

of subdivision (b) of Section 11055, methamphetamine, amphetamine, or phencyclidine (PCP) and its analogs 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.

(d) The additional terms provided in this section shall be in addition to any other punishment provided by law.

(e) 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. 6.5. Section 11370.4 of the Health and Safety Code is amended to read:

11370.4. (a) Any person convicted of a violation of Section 11351, 11351.5, or 11352 with respect to a substance containing heroin, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 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.

(4) Where the substance exceeds 100 pounds by weight, the person shall receive an additional term of 15 years.

(b) Any person convicted of a violation of Section 11378, 11378.5, 11379, or 11379.5 with respect to a substance containing methamphetamine, amphetamine, phencyclidine (PCP) and its analogs shall receive an additional term as follows:

(1) Where the substance exceeds three pounds by weight, or nine gallons by liquid volume, the person shall receive an additional term of three years.

(2) Where the substance exceeds 10 pounds by weight, or 33⅓ gallons by liquid volume, the person shall receive an additional term of five years.

(3) Where the substance exceeds 25 pounds by weight, or 62½ gallons by liquid volume, the person shall receive an additional term of 10 years.

In computing the quantities involved in this subdivision, plant or vegetable material seized shall not be included.

(c) The additional terms provided in this section shall not be imposed unless the allegation that the weight of the substance containing heroin, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, cocaine as specified in paragraph (6) of subdivision (b) of Section 11055, methamphetamine, amphetamine, or phencyclidine (PCP) and its analogs 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.

(d) The additional terms provided in this section shall be in addition to any other punishment provided by law.

(e) 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. 7. Section 11470 of the Health and Safety Code, as amended by Section 25.5 of Chapter 1044 of the Statutes of 1986, is amended to read:

11470. The following are subject to forfeiture:

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

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

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

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

(e) The interest of any registered owner of a boat, airplane, or any vehicle other than an implement of husbandry, as defined in Section 36000 of the Vehicle Code, which has been used as an instrument to facilitate the possession for sale or sale of 14.25 grams or more of heroin or cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or a substance containing 14.25 grams or more of heroin or cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or 14.25 grams or more of a substance containing heroin or cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or 28.5 grams or more of Schedule I controlled substances except marijuana, peyote, or psilocybin; 10 pounds dry weight or more of marijuana, peyote, or psilocybin; or 28.5 grams or more of cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 or methamphetamine; or a substance containing 28.5 grams or more of cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 or methamphetamine; or 57 grams or more of a substance containing cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 or methamphetamine; or 28.5 grams or more of Schedule II controlled substances. No interest in a vehicle which may be lawfully driven on the highway with a class 3 or class 4 license, as prescribed in Section 12804 of the Vehicle Code, may be forfeited under this subdivision if there is a community property interest in the vehicle by a person other than the defendant and the vehicle is the sole class 3 or class 4 vehicle available to the defendant's immediate family.

(f) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in

exchange for a controlled substance , all proceeds traceable to such an exchange, and all moneys, negotiable instruments, securities, or other things of value used or intended to be used to facilitate any violation of Section 11351, 11351.5, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, or 11382 of this code, or Section 182 of the Penal Code, insofar as the offense involves manufacture, sale, possession for sale, offer for sale, or offer to manufacture, or conspiracy to commit at least one of those offenses, if the exchange, violation, or other conduct which is the basis for the forfeiture occurred within five years of the seizure of the property.

(g) The real property of any property owner who is convicted of violating Section 11366, 11366.5, or 11366.6 with respect to that property. However, property which is used as a family residence or for other lawful purposes, or which is owned by two or more persons, one of whom had no knowledge of its unlawful use, shall not be subject to forfeiture.

(h) Subject to Section 1538.5 of the Penal Code and compliance with the requirements of Section 11488.5 and except as further limited by this subdivision to protect innocent parties who claim a property interest acquired from a defendant, all right, title, and interest in any personal property described in this section shall vest in the state upon commission of the act giving rise to forfeiture under this chapter, if the state or local governmental entity proves a violation of Section 11351, 11351.5, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, or 11382 in accordance with the burden of proof set forth in subdivision (j) of Section 11488.

The operation of the special vesting rule established by this subdivision shall be limited to circumstances where its application will not defeat the claim of any person, including a bona fide purchaser or encumbrancer who, pursuant to Section 11488.5, 11488.6, or 11489, claims an interest in the property seized, notwithstanding that the interest in the property being claimed was acquired from a defendant whose property interest would otherwise have been subject to divestment pursuant to this subdivision.

(i) Except as otherwise provided in this subdivision, upon seizure by any peace officer of this state, all moneys, negotiable instruments, or other cash equivalents seized in accordance with Section 11488, shall, immediately upon being seized, come under the jurisdiction of the superior court of the county in which the defendant has been charged with the underlying or related criminal offense or the superior court of the county in which the property subject to forfeiture has been seized. These moneys, negotiable instruments, or other cash equivalents shall be handled in accordance with subdivision (b) of Section 11488.

This subdivision applies only to the Los Angeles Police Department and the Los Angeles Sheriff's Department and does not apply (1) when the property seized exceeds a value of fifty thousand dollars ($50,000), (2) in any case where the seizure was made in the course of a criminal investigation in which federal law enforcement

agents participated, or (3) in any case in which the underlying or related criminal action or proceeding is brought in federal court.

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. 8. Section 11470 of the Health and Safety Code, as amended by Section 25.7 of Chapter 1044 of the Statutes of 1986, is amended to read:

11470. The following are subject to forfeiture:

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

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

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

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

(e) The interest of any registered owner of a boat, airplane, or any vehicle other than an implement of husbandry, as defined in Section 36000 of the Vehicle Code, which has been used as an instrument to facilitate the possession for sale or sale of 14.25 grams or more of heroin, or a substance containing 14.25 grams or more of heroin, or 14.25 grams or more of a substance containing heroin, or 28.5 grams or more of Schedule I controlled substances except marijuana, peyote, or psilocybin; 10 pounds dry weight or more of marijuana, peyote, or psilocybin; or 14.25 grams or more of cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054; or 28.5 grams or more of cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 or methamphetamine; or a substance containing 14.25 grams or more of cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054; or 28.5 grams or more of cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 or methamphetamine; or 14.25 grams or more of a substance containing cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054; or 57 grams or more of a substance containing cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 or methamphetamine; or 28.5 grams or more of Schedule II controlled substances and the defendant has been convicted of a violation of Section 11351, 11351.5, 11352, 11353, 11359, 11360, 11361, 11378, 11378.5, 11379, 11379.5, or 11379.6, or a conspiracy to commit any such violation and the vehicle was used in the commission of the crime for which the conviction was obtained. No interest in a vehicle which may be lawfully driven on the highway with a class 3 or class 4 license, as prescribed in Section 12804 of the Vehicle Code, may be forfeited under this subdivision if there is a community property interest in the vehicle by a person other than the defendant and the vehicle is

the sole class 3 or class 4 vehicle available to the defendant's immediate family.

(f) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of Section 11351, 11351.5, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, or 11382 of this code, or Section 182 of the Penal Code, insofar as the offense involves manufacture, sale, possession for sale, offer for sale, or offer to manufacture, or conspiracy to commit at least one of those offenses, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of Section 11351, 11351.5, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, or 11382 of this code, or Section 182 of the Penal Code, insofar as the offense involves manufacture, sale, possession for sale, offer for sale, or offer to manufacture, or conspiracy to commit at least one of those offenses, provided that the individual is arrested and convicted, for any of the offenses enumerated in this subdivision, and provided further that, the exchange, violation, or other conduct which is the basis for the forfeiture occurred within five years of the arrest leading to the conviction of any of the offenses enumerated in this subdivision.

(g) The real property of any property owner who is convicted of violating Section 11366, 11366.5, or 11366.6 with respect to that property. However, property which is used as a family residence or for other lawful purposes, or which is owned by two or more persons, one of whom had no knowledge of its unlawful use, shall not be subject to forfeiture.

This section shall become operative January 1, 1989, unless the act enacting this section or a later enacted statute provides otherwise.

SEC. 9. Section 1203.07 of the Penal Code is amended to read:

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

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

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

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

(4) Any person who is convicted of violating Section 11378.5 of the Health and Safety Code by possessing for sale 14.25 grams or more of any salt or solution of phencyclidine or any of its analogs as

specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or in paragraph (3) of subdivision (e) of Section 11055 of the Health and Safety Code, or any of the precursors of phencyclidine as specified in paragraph (2) of subdivision (f) of Section 11055 of the Health and Safety Code.

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

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

(7) Any person who is convicted of violating Section 11379.6 of the Health and Safety Code by manufacturing or offering to perform an act involving the manufacture of phencyclidine or any of its analogs or precursors.

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

(8) Any person who is convicted of violating Section 11380 of the Health and Safety Code by using, soliciting, inducing, encouraging, or intimidating a minor to act as an agent to manufacture, compound, or sell any controlled substance specified in subdivision (d) of Section 11054 of the Health and Safety Code, except paragraphs (13), (14), (15), (20), (21), (22), and (23) of subdivision (d), or specified in subdivision (d), (e), or (f) of Section 11055 of the Health and Safety Code, except paragraph (3) of subdivision (e) and subparagraphs (A) and (B) of paragraph (2) of subdivision (f).

(9) Any person who is convicted of violating Section 11380.5 of the Health and Safety Code by the use of a minor as an agent or who solicits, induces, encourages, or intimidates a minor with the intent that the minor shall violate the provisions of Section 11378.5, 11379.5, or 11379.6 of the Health and Safety Code insofar as the violation relates to phencyclidine or any of its analogs or precursors.

(10) Any person who is convicted of violating subdivision (b) of Section 11383 of the Health and Safety Code by possessing piperidine, pyrrolidine, or morpholine, and cyclohexanone, with intent to manufacture phencyclidine or any of its analogs.

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

SEC. 10. 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 as specified in paragraph (6) of subdivision (b) of Section 11055 of the Health and Safety Code, or a substance containing 28.5 grams or more of cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 of the Health and Safety Code, or 57 grams or more of a substance containing cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 of the Health and Safety Code.

(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) Except as otherwise provided in Section 1203.07, 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 base as specified in paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code, cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 of the Health and Safety Code, or methamphetamine.

(5) Any person who is convicted of violating Section 11351.5 of the Health and Safety Code by possessing for sale 14.25 grams or more of cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code, or a substance containing 14.25 grams or more of cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code, or 57 grams or more of a substance containing at least five grams of cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code.

(6) Any person who is convicted of violating Section 11352 of the Health and Safety Code by transporting for sale, importing for sale, or administering, or by offering to transport for sale, import for sale, or administer, or by attempting to import for sale or transport for

sale, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code.

(7) Any person who is convicted of violating Section 11352 of the Health and Safety Code by selling or offering to sell cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code.

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. 11. Section 6.5 of this bill incorporates amendments to Section 11370.4 of the Health and Safety Code proposed by both this bill and AB 1972. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1988, but this bill becomes operative first, (2) each bill amends Section 11370.4 of the Health and Safety Code, and (3) this bill is enacted after AB 1972, in which case Section 11370.4 of the Health and Safety Code, as amended by Section 6 of this bill, shall remain operative only until the operative date of AB 1972, at which time Section 6.5 of this bill shall become operative.

SEC. 12. Section 7 of this bill amends Section 11470 of the Health and Safety Code, as amended by Section 25.5 of Chapter 1044 of the Statutes of 1986. It shall remain operative only until the operative date of AB 1076, if AB 1076 is chaptered and becomes operative, and amends Section 11470 of the Health and Safety Code, as amended by Section 25.5 of Chapter 1044 of the Statutes of 1986.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for law enforcement to be able to effectively control the sale and use of the lethal drug cocaine, it is necessary that this act go into immediate effect.

CHAPTER 1175

An act to amend Section 66484.3 of the Government Code, relating to subdivisions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 26, 1987]

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

SECTION 1. Section 66484.3 of the Government Code is amended to read:

66484.3. (a) Notwithstanding Section 53077.5, the Board of Supervisors of the County of Orange and the city council of any city in that county may, by ordinance, require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares.

(b) The local ordinance may require payment of fees pursuant to this section if:

(1) The ordinance refers to the circulation element of the general plan and, in the case of bridges, to the transportation provisions or flood control provisions of the general plan which identify railways, freeways, streams, or canyons for which bridge crossings are required on the general plan or local roads and in the case of major thoroughfares, to the provisions of the circulation element which identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to or which is part of the state highway system, and the circulation element, transportation provisions, or flood control provisions have been adopted by the local agency 30 days prior to the filing of a map or application for a building permit. Bridges which are part of a major thoroughfare need not be separately identified in the transportation or flood control provisions of the general plan.

(2) The ordinance provides that there will be a public hearing held by the governing body for each area benefited. Notice shall be given pursuant to Section 65905. In addition to the requirements of Section 65905, the notice shall contain preliminary information related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment. The area of benefit may include land or improvements in addition to the land or improvements which are the subject of any map or building permit application considered at the proceedings.

(3) The ordinance provides that at the public hearing, the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment are established. The method of fee apportionment, in the case of major thoroughfares, shall not provide for higher fees on land which abuts the proposed improvement except where the abutting property is provided direct usable access to the major thoroughfare. A description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing shall be incorporated in a resolution of the governing body, a certified copy of which shall be recorded by the governing body conducting the hearing with the recorder of the county in which the area of benefit is located. The resolution may subsequently be modified in any respect by the governing body. Modifications shall be adopted in the same manner as the original resolution. Any modification shall be subject to the protest procedures prescribed by paragraph (6). The

resolution may provide for automatic periodic adjustment of fees based upon the California Construction Cost Index prepared and published by the Department of Transportation, without further action of the governing body, including, but not limited to, public notice or hearing. The apportioned fees shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of a final map or as a condition of issuing a building permit for any of the property or portions of the property. Where the area of benefit includes lands not subject to the payment of fees pursuant to this section, the governing body shall make provision for payment of the share of improvement costs apportioned to those lands from other sources, but those sources need not be identified at the time of the adoption of the resolution.

(4) The ordinance provides that payment of fees shall not be required unless the major thoroughfares are in addition to, or a reconstruction or widening of, any existing major thoroughfares serving the area at the time of the adoption of the boundaries of the area of benefit.

(5) The ordinance provides that payment of fees shall not be required unless the planned bridge facility is an original bridge serving the area or an addition to any existing bridge facility serving the area at the time of the adoption of the boundaries of the area of benefit. Fees imposed pursuant to this section shall not be expended to reimburse the cost of existing bridge facility construction, unless these costs are incurred in connection with the construction of an addition to an existing bridge for which fees may be required.

(6) The ordinance provides that if, within the time when protests may be filed under its provisions, there is a written protest, filed with the clerk of the legislative body, by the owners of more than one-half of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of that to be benefited, then the proposed proceedings shall be abandoned, and the legislative body shall not, for one year from the filing of that written protest, commence or carry on any proceedings for the same improvement or acquisition under the provisions of this section, unless the protests are overruled by an affirmative vote of four-fifths of the legislative body.

Nothing in this section shall preclude the processing and recordation of maps in accordance with other provisions of this division if proceedings are abandoned.

Any protests may be withdrawn in writing by the owner who filed the protest, at any time prior to the conclusion of a public hearing held pursuant to the ordinance.

If any majority protest is directed against only a portion of the improvement then all further proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year, but the legislative body shall not be barred from commencing new

proceedings not including any part of the improvement or acquisition so protested against. Nothing in this section shall prohibit the legislative body, within the one-year period, from commencing and carrying on new proceedings for the construction of a portion of the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with that portion of the improvement or acquisition.

(c) Fees paid pursuant to an ordinance adopted pursuant to this section shall be deposited in a planned bridge facility or major thoroughfare fund. A fund shall be established for each planned bridge facility project or each planned major thoroughfare project. If the benefit area is one in which more than one bridge or major thoroughfare is required to be constructed, a fund may be so established covering all of the bridge or major thoroughfare projects in the benefit area. Moneys in the fund shall be expended solely for the construction or reimbursement for construction of the improvement serving the area to be benefited and from which the fees comprising the fund were collected, or to reimburse the county or a city for the cost of constructing the improvement.

(d) An ordinance adopted pursuant to this section may provide for the acceptance of considerations in lieu of the payment of fees.

(e) The county or a city imposing fees pursuant to this section may advance money from its general fund or road fund to pay the cost of constructing the improvements and may reimburse the general fund or road fund from planned bridge facility or major thoroughfares funds established to finance the construction of the improvements.

(f) The county or a city imposing fees pursuant to this section may incur an interest-bearing indebtedness for the construction of bridge facilities or major thoroughfares, and may enter into joint exercise of powers agreements with other local agencies imposing fees pursuant to this section for the purpose of, among others, jointly exercising the duly authorized original power established by this section, in addition to those powers authorized through a joint exercise of powers agreement. The sole security for repayment of the indebtedness shall be moneys in planned bridge facility or major thoroughfares funds.

(g) The term "construction," as used in this section, includes design, acquisition of rights-of-way, and actual construction, including, but not limited to, all direct and indirect environmental, engineering, accounting, legal, administration of construction contracts, and other services necessary therefor. The term "construction" also includes reasonable general agency administrative expenses, not exceeding three hundred thousand dollars ($300,000) in any calendar year after January 1, 1986, as adjusted annually for any increase or decrease in the Consumer Price Index of the Bureau of Labor Statistics of the United States Department of Labor for all Urban Consumers, Los Angeles-Long

Beach-Anaheim, California (1967=100), as published by the United States Department of Commerce, by each agency created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 for the purpose of constructing bridges and major thoroughfares. "General agency administrative expenses" means those office, personnel, and other customary and normal expenses associated with the direct management and administration of the agency, but not including costs of construction.

(h) Nothing in this section shall be construed to preclude the County of Orange or any city within that county from providing funds for the construction of bridge facilities or major thoroughfares to defray costs not allocated to the area of benefit.

(i) Any city within the County of Orange may require the payment of fees in accordance with this section as to any property in an area of benefit within the city's boundaries, for facilities shown on its general plan or the county's general plan, whether the facilities are situated within or outside the boundaries of the city, and the county may expend fees for facilities or portions thereof located within cities in the county.

(j) The validity of any fee required pursuant to this section shall not be contested in any action or proceeding unless commenced within 60 days after recordation of the resolution described in paragraph (3) of subdivision (b). The provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure shall be applicable to any such action or proceeding. This subdivision shall also apply to modifications of fee programs.

SEC. 2. Section 66484.3 of the Government Code, as amended by Section 1 of this act, is amended to read:

66484.3. (a) Notwithstanding Section 53077.5, the Board of Supervisors of the County of Orange and the city council of any city in that county may, by ordinance, require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares.

(b) The local ordinance may require payment of fees pursuant to this section if:

(1) The ordinance refers to the circulation element of the general plan and, in the case of bridges, to the transportation provisions or flood control provisions of the general plan which identify railways, freeways, streams, or canyons for which bridge crossings are required on the general plan or local roads, and in the case of major thoroughfares, to the provisions of the circulation element which identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to or which is part of the state highway system, and the circulation element, transportation provisions, or flood control provisions have been adopted by the local agency 30 days prior to the filing of a map or application for a building permit. Bridges which are part of a major

thoroughfare need not be separately identified in the transportation or flood control provisions of the general plan.

(2) The ordinance provides that there will be a public hearing held by the governing body for each area benefited. Notice shall be given pursuant to Section 65905. In addition to the requirements of Section 65905, the notice shall contain preliminary information related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment. The area of benefit may include land or improvements in addition to the land or improvements which are the subject of any map or building permit application considered at the proceedings.

(3) The ordinance provides that at the public hearing, the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment are established. The method of fee apportionment, in the case of major thoroughfares, shall not provide for higher fees on land which abuts the proposed improvement except where the abutting property is provided direct usable access to the major thoroughfare. A description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing shall be incorporated in a resolution of the governing body, a certified copy of which shall be recorded by the governing body conducting the hearing with the recorder of the County of Orange. The resolution may subsequently be modified in any respect by the governing body. Modifications shall be adopted in the same manner as the original resolution. Any modification shall be subject to the protest procedures prescribed by paragraph (6). The resolution may provide for automatic periodic adjustment of fees based upon the California Construction Cost Index prepared and published by the Department of Transportation, without further action of the governing body, including, but not limited to, public notice or hearing. The apportioned fees shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of a final map or as a condition of issuing a building permit for any of the property or portions of the property. Where the area of benefit includes lands not subject to the payment of fees pursuant to this section, the governing body shall make provision for payment of the share of improvement costs apportioned to those lands from other sources, but those sources need not be identified at the time of the adoption of the resolution.

(4) The ordinance provides that payment of fees shall not be required unless the major thoroughfares are in addition to, or a reconstruction or widening of, any existing major thoroughfares serving the area at the time of the adoption of the boundaries of the area of benefit.

(5) The ordinance provides that payment of fees shall not be required unless the planned bridge facility is an original bridge serving the area or an addition to any existing bridge facility serving

the area at the time of the adoption of the boundaries of the area of benefit. Fees imposed pursuant to this section shall not be expended to reimburse the cost of existing bridge facility construction, unless these costs are incurred in connection with the construction of an addition to an existing bridge for which fees may be required.

(6) The ordinance provides that if, within the time when protests may be filed under its provisions, there is a written protest, filed with the clerk of the legislative body, by the owners of more than one-half of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of that to be benefited, then the proposed proceedings shall be abandoned, and the legislative body shall not, for one year from the filing of that written protest, commence or carry on any proceedings for the same improvement or acquisition under the provisions of this section, unless the protests are overruled by an affirmative vote of four-fifths of the legislative body.

Nothing in this section shall preclude the processing and recordation of maps in accordance with other provisions of this division if proceedings are abandoned.

Any protests may be withdrawn in writing by the owner who filed the protest, at any time prior to the conclusion of a public hearing held pursuant to the ordinance.

If any majority protest is directed against only a portion of the improvement then all further proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year, but the legislative body shall not be barred from commencing new proceedings not including any part of the improvement or acquisition so protested against. Nothing in this section shall prohibit the legislative body, within the one-year period, from commencing and carrying on new proceedings for the construction of a portion of the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with that portion of the improvement or acquisition.

(c) Fees paid pursuant to an ordinance adopted pursuant to this section shall be deposited in a planned bridge facility or major thoroughfare fund. A fund shall be established for each planned bridge facility project or each planned major thoroughfare project. If the benefit area is one in which more than one bridge or major thoroughfare is required to be constructed, a fund may be so established covering all of the bridge or major thoroughfare projects in the benefit area. Moneys in the fund shall be expended solely for the construction or reimbursement for construction of the improvement serving the area to be benefited and from which the fees comprising the fund were collected, or to reimburse the county or a city for the cost of constructing the improvement.

(d) An ordinance adopted pursuant to this section may provide

for the acceptance of considerations in lieu of the payment of fees.

(e) The county or a city imposing fees pursuant to this section may advance money from its general fund or road fund to pay the cost of constructing the improvements and may reimburse the general fund or road fund from planned bridge facilities or major thoroughfares funds established to finance the construction of the improvements.

(f) The county or a city imposing fees pursuant to this section may incur an interest-bearing indebtedness for the construction of bridge facilities or major thoroughfares, and may enter into joint exercise of powers agreements with other local agencies imposing fees pursuant to this section for the purpose of, among others, jointly exercising the duly authorized original power established by this section, in addition to those powers authorized through a joint exercise of powers agreement. The sole security for repayment of the indebtedness shall be moneys in planned bridge facilities or major thoroughfares funds.

(g) The term "construction," as used in this section, includes design, acquisition of rights-of-way, and actual construction, including, but not limited to, all direct and indirect environmental, engineering, accounting, legal, administration of construction contracts, and other services necessary therefor. The term "construction" also includes reasonable general agency administrative expenses, not exceeding three hundred thousand dollars ($300,000) in any calendar year after January 1, 1986, as adjusted annually for any increase or decrease in the Consumer Price Index of the Bureau of Labor Statistics of the United States Department of Labor for all Urban Consumers, Los Angeles-Long Beach-Anaheim, California (1967=100), as published by the United States Department of Commerce, by each agency created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 for the purpose of constructing bridges and major thoroughfares. "General agency administrative expenses" means those office, personnel, and other customary and normal expenses associated with the direct management and administration of the agency, but not including costs of construction.

(h) Nothing in this section shall be construed to preclude the County of Orange or any city within that county from providing funds for the construction of bridge facilities or major thoroughfares to defray costs not allocated to the area of benefit.

(i) Any city within the County of Orange may require the payment of fees in accordance with this section as to any property in an area of benefit within the city's boundaries, for facilities shown on its general plan or the county's general plan, whether the facilities are situated within or outside the boundaries of the city, and the county may expend fees for facilities or portions thereof located within cities in the county.

(j) The validity of any fee required pursuant to this section shall not be contested in any action or proceeding unless commenced

within 60 days after recordation of the resolution described in paragraph (3) of subdivision (b). The provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure shall be applicable to any such action or proceeding. This subdivision shall also apply to modifications of fee programs.

(k) If the County of Orange and any city within that county have entered into a joint powers agreement for the purpose of constructing the bridges and major thoroughfares referred to in Sections 50029 and 66484.3, and if a proposed change of organization or reorganization includes any territory of an area of benefit established pursuant to Sections 50029 and 66484.3, within a successor local agency, the local agency shall not take any action that would impair, delay, frustrate, obstruct, or otherwise impede the construction of the bridges and major thoroughfares referred to in this section.

SEC. 3. Section 66484.3 of the Government Code, as amended by Section 1 of this act, is amended to read:

66484.3. (a) Notwithstanding Section 53077.5, the Board of Supervisors of the County of Orange and the city council or councils of any city or cities in that county may, by ordinance, require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares.

(b) The local ordinance may require payment of fees pursuant to this section if:

(1) The ordinance refers to the circulation element of the general plan and, in the case of bridges, to the transportation provisions or flood control provisions of the general plan which identify railways, freeways, streams, or canyons for which bridge crossings are required on the general plan or local roads, and in the case of major thoroughfares, to the provisions of the circulation element which identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to or which is part of the state highway system, and the circulation element, transportation provisions, or flood control provisions have been adopted by the local agency 30 days prior to the filing of a map or application for a building permit. Bridges which are part of a major thoroughfare need not be separately identified in the transportation or flood control provisions of the general plan.

(2) The ordinance provides that there will be a public hearing held by the governing body for each area benefited. Notice shall be given pursuant to Section 65905. In addition to the requirements of Section 65905, the notice shall contain preliminary information related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment. The area of benefit may include land or improvements in addition to the land or improvements which are the subject of any map or building permit application

considered at the proceedings.

(3) The ordinance provides that at the public hearing, the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment are established. The method of fee apportionment, in the case of major thoroughfares, shall not provide for higher fees on land which abuts the proposed improvement except where the abutting property is provided direct usable access to the major thoroughfare. A description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing shall be incorporated in a resolution of the governing body, a certified copy of which shall be recorded by the governing body conducting the hearing with the recorder of the county in which the area of benefit is located. The resolution may subsequently be modified in any respect by the governing body. Modifications shall be adopted in the same manner as the original resolution. Any modification shall be subject to the protest procedures prescribed by paragraph (6). The resolution may provide for automatic periodic adjustment of fees based upon the California Construction Cost Index prepared and published by the Department of Transportation, without further action of the governing body, including, but not limited to, public notice or hearing. The apportioned fees shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of a final map or as a condition of issuing a building permit for any of the property or portions of the property. Where the area of benefit includes lands not subject to the payment of fees pursuant to this section, the governing body shall make provision for payment of the share of improvement costs apportioned to those lands from other sources, but those sources need not be identified at the time of the adoption of the resolution.

(4) The ordinance provides that payment of fees shall not be required unless the major thoroughfares are in addition to, or a reconstruction or widening of, any existing major thoroughfares serving the area at the time of the adoption of the boundaries of the area of benefit.

(5) The ordinance provides that payment of fees shall not be required unless the planned bridge facility is an original bridge serving the area or an addition to any existing bridge facility serving the area at the time of the adoption of the boundaries of the area of benefit. Fees imposed pursuant to this section shall not be expended to reimburse the cost of existing bridge facility construction, unless these costs are incurred in connection with the construction of an addition to an existing bridge for which fees may be required.

(6) The ordinance provides that if, within the time when protests may be filed under its provisions, there is a written protest, filed with the clerk of the legislative body, by the owners of more than one-half of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area

represented to less than one-half of that to be benefited, then the proposed proceedings shall be abandoned, and the legislative body shall not, for one year from the filing of that written protest, commence or carry on any proceedings for the same improvement or acquisition under this section, unless the protests are overruled by an affirmative vote of four-fifths of the legislative body.

Nothing in this section shall preclude the processing and recordation of maps in accordance with other provisions of this division if proceedings are abandoned.

Any protests may be withdrawn in writing by the owner who filed the protest, at any time prior to the conclusion of a public hearing held pursuant to the ordinance.

If any majority protest is directed against only a portion of the improvement then all further proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year, but the legislative body shall not be barred from commencing new proceedings not including any part of the improvement or acquisition so protested against. Nothing in this section shall prohibit the legislative body, within the one-year period, from commencing and carrying on new proceedings for the construction of a portion of the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with that portion of the improvement or acquisition.

(c) Fees paid pursuant to an ordinance adopted pursuant to this section shall be deposited in a planned bridge facility or major thoroughfare fund. A fund shall be established for each planned bridge facility project or each planned major thoroughfare project. If the benefit area is one in which more than one bridge or major thoroughfare is required to be constructed, a fund may be so established covering all of the bridge or major thoroughfare projects in the benefit area. Moneys in the fund shall be expended solely for the construction or reimbursement for construction of the improvement serving the area to be benefited and from which the fees comprising the fund were collected, or to reimburse the county or a city for the cost of constructing the improvement.

(d) An ordinance adopted pursuant to this section may provide for the acceptance of considerations in lieu of the payment of fees.

(e) The county or a city imposing fees pursuant to this section may advance money from its general fund or road fund to pay the cost of constructing the improvements and may reimburse the general fund or road fund from planned bridge facilities or major thoroughfares funds established to finance the construction of the improvements.

(f) The county or a city imposing fees pursuant to this section may incur an interest-bearing indebtedness for the construction of bridge facilities or major thoroughfares, and may enter into joint exercise of powers agreements with other local agencies imposing fees pursuant

to this section, for the purpose of, among others, jointly exercising as a duly authorized original power established by this section, in addition to those through a joint exercise of powers agreement, those powers authorized in Chapter 5 (commencing with Section 31100) of Division 17 of the Streets and Highways Code for the purpose of constructing bridge facilities and major thoroughfares in lieu of a tunnel and appurtenant facilities, and, notwithstanding Section 31200 of the Streets and Highways Code, may acquire by dedication, gift, purchase, or eminent domain, any franchise, rights, privileges, easements, or other interest in property, either real or personal, necessary therefor on segments of the state highway system, including, but not limited to, those segments of the state highway system eligible for federal participation pursuant to Title 23 of the United States Code.

An entity constructing bridge facilities and major thoroughfares pursuant to this section shall design and construct the bridge facilities and major thoroughfares to the standards and specifications of the Department of Transportation then in effect, and may, at any time, transfer all or a portion of the bridge facilities and major thoroughfares to the state subject to the terms and conditions as shall be satisfactory to the Director of the Department of Transportation. Any of these bridge facilities and major thoroughfares shall be designated as a portion of the state highway system prior to its transfer. The sole security for repayment of the indebtedness shall be moneys in planned bridge facilities or major thoroughfares funds. The participants in a joint exercise of powers agreement may also exercise as a duly authorized original power established by this section the power to establish and collect toll charges only for paying for the costs of construction of the major thoroughfare for which the toll is charged and for the costs of collecting the tolls. Major thoroughfares from which tolls are charged shall utilize the toll collection equipment most capable of moving vehicles expeditiously and efficiently, best suited for that purpose as determined by the participants in the joint exercise of powers agreement. However, in no event shall the powers authorized in Chapter 5 (commencing with Section 31100) of Division 17 of the Streets and Highways Code be exercised unless a resolution is first adopted by the legislative body of the agency finding that adequate funding for the portion of the cost of constructing those bridge facilities and major thoroughfares not funded by the development fees collected by the agency is not available from any federal, state, or other source. Any major thoroughfare constructed and operated as a toll road pursuant to this section shall only be constructed parallel to other public thoroughfares and highways.

(g) The term "construction," as used in this section, includes design, acquisition of rights-of-way, and actual construction, including, but not limited to, all direct and indirect environmental, engineering, accounting, legal, administration of construction contracts, and other services necessary therefor. The term

"construction" also includes reasonable general agency administrative expenses, not exceeding three hundred thousand dollars ($300,000) in any calendar year after January 1, 1986, as adjusted annually for any increase or decrease in the Consumer Price Index of the Bureau of Labor Statistics of the United States Department of Labor for all Urban Consumers, Los Angeles-Long Beach-Anaheim, California (1967=100), as published by the United States Department of Commerce, by each agency created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 for the purpose of constructing bridges and major thoroughfares. "General agency administrative expenses" means those office, personnel, and other customary and normal expenses associated with the direct management and administration of the agency, but not including costs of construction.

(h) Nothing in this section shall be construed to preclude the County of Orange or any city within that county from providing funds for the construction of bridge facilities or major thoroughfares to defray costs not allocated to the area of benefit.

(i) Any city within the County of Orange may require the payment of fees in accordance with this section as to any property in an area of benefit within the city's boundaries, for facilities shown on its general plan or the county's general plan, whether the facilities are situated within or outside the boundaries of the city, and the county may expend fees for facilities or portions thereof located within cities in the county.

(j) The validity of any fee required pursuant to this section shall not be contested in any action or proceeding unless commenced within 60 days after recordation of the resolution described in paragraph (3) of subdivision (b). The provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure shall be applicable to any such action or proceeding. This subdivision shall also apply to modifications of fee programs.

SEC. 4. Section 66484.3 of the Government Code, as amended by Section 1 of this act, is amended to read:

66484.3. (a) Notwithstanding Section 53077.5, the Board of Supervisors of the County of Orange and the city council or councils of any city or cities in that county may, by ordinance, require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares.

(b) The local ordinance may require payment of fees pursuant to this section if:

(1) The ordinance refers to the circulation element of the general plan and, in the case of bridges, to the transportation provisions or flood control provisions of the general plan which identify railways, freeways, streams, or canyons for which bridge crossings are required on the general plan or local roads, and in the case of major

thoroughfares, to the provisions of the circulation element which identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to or which is part of the state highway system, and the circulation element, transportation provisions, or flood control provisions have been adopted by the local agency 30 days prior to the filing of a map or application for a building permit. Bridges which are part of a major thoroughfare need not be separately identified in the transportation or flood control provisions of the general plan.

(2) The ordinance provides that there will be a public hearing held by the governing body for each area benefited. Notice shall be given pursuant to Section 65905. In addition to the requirements of Section 65905, the notice shall contain preliminary information related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment. The area of benefit may include land or improvements in addition to the land or improvements which are the subject of any map or building permit application considered at the proceedings.

(3) The ordinance provides that at the public hearing, the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment are established. The method of fee apportionment, in the case of major thoroughfares, shall not provide for higher fees on land which abuts the proposed improvement except where the abutting property is provided direct usable access to the major thoroughfare. A description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing shall be incorporated in a resolution of the governing body, a certified copy of which shall be recorded by the governing body conducting the hearing with the recorder of the County of Orange. The resolution may subsequently be modified in any respect by the governing body. Modifications shall be adopted in the same manner as the original resolution. Any modification shall be subject to the protest procedures prescribed by paragraph (6). The resolution may provide for automatic periodic adjustment of fees based upon the California Construction Cost Index prepared and published by the Department of Transportation, without further action of the governing body, including, but not limited to, public notice or hearing. The apportioned fees shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of a final map or as a condition of issuing a building permit for any of the property or portions of the property. Where the area of benefit includes lands not subject to the payment of fees pursuant to this section, the governing body shall make provision for payment of the share of improvement costs apportioned to those lands from other sources, but those sources need not be identified at the time of the adoption of the resolution.

(4) The ordinance provides that payment of fees shall not be

required unless the major thoroughfares are in addition to, or a reconstruction or widening of, any existing major thoroughfares serving the area at the time of the adoption of the boundaries of the area of benefit.

(5) The ordinance provides that payment of fees shall not be required unless the planned bridge facility is an original bridge serving the area or an addition to any existing bridge facility serving the area at the time of the adoption of the boundaries of the area of benefit. Fees imposed pursuant to this section shall not be expended to reimburse the cost of existing bridge facility construction, unless these costs are incurred in connection with the construction of an addition to an existing bridge for which fees may be required.

(6) The ordinance provides that if, within the time when protests may be filed under its provisions, there is a written protest, filed with the clerk of the legislative body, by the owners of more than one-half of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of that to be benefited, then the proposed proceedings shall be abandoned, and the legislative body shall not, for one year from the filing of that written protest, commence or carry on any proceedings for the same improvement or acquisition under this section, unless the protests are overruled by an affirmative vote of four-fifths of the legislative body.

Nothing in this section shall preclude the processing and recordation of maps in accordance with other provisions of this division if proceedings are abandoned.

Any protests may be withdrawn in writing by the owner who filed the protest, at any time prior to the conclusion of a public hearing held pursuant to the ordinance.

If any majority protest is directed against only a portion of the improvement then all further proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year, but the legislative body shall not be barred from commencing new proceedings not including any part of the improvement or acquisition so protested against. Nothing in this section shall prohibit the legislative body, within the one-year period, from commencing and carrying on new proceedings for the construction of a portion of the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with that portion of the improvement or acquisition.

(c) Fees paid pursuant to an ordinance adopted pursuant to this section shall be deposited in a planned bridge facility or major thoroughfare fund. A fund shall be established for each planned bridge facility project or each planned major thoroughfare project. If the benefit area is one in which more than one bridge or major thoroughfare is required to be constructed, a fund may be so established covering all of the bridge or major thoroughfare projects

in the benefit area. Moneys in the fund shall be expended solely for the construction or reimbursement for construction of the improvement serving the area to be benefited and from which the fees comprising the fund were collected, or to reimburse the county or a city for the cost of constructing the improvement.

(d) An ordinance adopted pursuant to this section may provide for the acceptance of considerations in lieu of the payment of fees.

(e) The county or a city imposing fees pursuant to this section may advance money from its general fund or road fund to pay the cost of constructing the improvements and may reimburse the general fund or road fund from planned bridge facilities or major thoroughfares funds established to finance the construction of the improvements.

(f) The county or a city imposing fees pursuant to this section may incur an interest-bearing indebtedness for the construction of bridge facilities or major thoroughfares, and may enter into joint exercise of powers agreements with other local agencies imposing fees pursuant to this section for the purpose of, among others, jointly exercising the duly authorized original power established by this section, in addition to those powers authorized through a joint exercise of powers agreement, those powers authorized in Chapter 5 (commencing with Section 31100) of Division 17 of the Streets and Highways Code for the purpose of constructing bridge facilities and major thoroughfares in lieu of a tunnel and appurtenant facilities, and, notwithstanding Section 31200 of the Streets and Highways Code, may acquire by dedication, gift, purchase, or eminent domain, any franchise, rights, privileges, easements, or other interest in property, either real or personal, necessary therefor on segments of the state highway system, including, but not limited to, those segments of the state highway system eligible for federal participation pursuant to Title 23 of the United States Code.

An entity constructing bridge facilities and major thoroughfares pursuant to this section shall design and construct the bridge facilities and major thoroughfares to the standards and specifications of the Department of Transportation then in effect, and may, at any time, transfer all or a portion of the bridge facilities and major thoroughfares to the state subject to the terms and conditions as shall be satisfactory to the Director of the Department of Transportation. Any of these bridge facilities and major thoroughfares shall be designated as a portion of the state highway system prior to its transfer. The sole security for repayment of the indebtedness shall be moneys in planned bridge facilities or major thoroughfares funds. The participants in a joint exercise of powers agreement may also exercise as a duly authorized original power established by this section the power to establish and collect toll charges only for paying for the costs of construction of the major thoroughfare for which the toll is charged and for the costs of collecting the tolls. Major thoroughfares from which tolls are charged shall utilize the toll collection equipment most capable of moving vehicles expeditiously

and efficiently, best suited for that purpose as determined by the participants in the joint exercise of powers agreement. However, in no event shall the powers authorized in Chapter 5 (commencing with Section 31100) of Division 17 of the Streets and Highways Code be exercised unless a resolution is first adopted by the legislative body of the agency finding that adequate funding for the portion of the cost of constructing those bridge facilities and major thoroughfares not funded by the development fees collected by the agency is not available from any federal, state, or other source. Any major thoroughfare constructed and operated as a toll road pursuant to this section shall only be constructed parallel to other public thoroughfares and highways.

(g) The term "construction," as used in this section, includes design, acquisition of rights-of-way, and actual construction, including, but not limited to, all direct and indirect environmental, engineering, accounting, legal, administration of construction contracts, and other services necessary therefor. The term "construction" also includes reasonable general agency administrative expenses, not exceeding three hundred thousand dollars ($300,000) in any calendar year after January 1, 1986, as adjusted annually for any increase or decrease in the Consumer Price Index of the Bureau of Labor Statistics of the United States Department of Labor for all Urban Consumers, Los Angeles-Long Beach-Anaheim, California (1967=100), as published by the United States Department of Commerce, by each agency created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 for the purpose of constructing bridges and major thoroughfares. "General agency administrative expenses" means those office, personnel, and other customary and normal expenses associated with the direct management and administration of the agency, but not including costs of construction.

(h) Nothing in this section shall be construed to preclude the County of Orange or any city within that county from providing funds for the construction of bridge facilities or major thoroughfares to defray costs not allocated to the area of benefit.

(i) Any city within the County of Orange may require the payment of fees in accordance with this section as to any property in an area of benefit within the city's boundaries, for facilities shown on its general plan or the county's general plan, whether the facilities are situated within or outside the boundaries of the city, and the county may expend fees for facilities or portions thereof located within cities in the county.

(j) The validity of any fee required pursuant to this section shall not be contested in any action or proceeding unless commenced within 60 days after recordation of the resolution described in paragraph (3) of subdivision (b). The provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure shall be applicable to any such action or proceeding. This subdivision shall also apply to modifications of fee programs.

(k) If the County of Orange and any city within that county have entered into a joint powers agreement for the purpose of constructing the bridges and major thoroughfares referred to in Sections 50029 and 66484.3, and if a proposed change of organization or reorganization includes any territory of an area of benefit established pursuant to Sections 50029 and 66484.3, within a successor local agency, the local agency shall not take any action that would impair, delay, frustrate, obstruct, or otherwise impede the construction of the bridges and major thoroughfares referred to in this section.

SEC. 5. (a) Section 2 of this bill incorporates amendments to Section 66484.3 of the Government Code proposed by both this bill and SB 1073. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1988, (2) each bill amends Section 66484.3 of the Government Code, (3) SB 1413 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1073 in which case Section 66484.3 of the Government Code, as amended by Section 1 of this bill shall remain operative only until the operative date of SB 1073 at which time Section 2 of this bill shall become operative, and Sections 3 and 4 of this bill shall not become operative.

(b) Section 3 of this bill incorporates amendments to Section 66484.3 of the Government Code proposed by both this bill and SB 1413. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1988, (2) each bill amends Section 66484.3 of the Government Code, (3) SB 1073 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1413 in which case Section 66484.3 of the Government Code, as amended by Section 1 of this bill shall remain operative only until the operative date of SB 1413 at which time Section 3 of this bill shall become operative, and Sections 2 and 4 of this bill shall not become operative.

(c) Section 4 of this bill incorporates amendments to Section 66484.3 of the Government Code proposed by this bill, SB 1073, and SB 1413. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1988, (2) all three bills amend Section 66484.3 of the Government Code, and (3) this bill is enacted after SB 1073 and SB 1413, in which case Section 66484.3 of the Government Code, as amended by Section 1 of this bill shall remain operative only until the later operative date of SB 1073 or SB 1074 at which time Section 4 of this bill shall become operative, and Sections 2 and 3 of this bill shall not become operative.

SEC. 6. The Legislature finds and declares that the financing of regional transportation systems in Orange County is a matter of statewide concern.

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:

There is presently a transportation crisis within Orange County due to the lack of funds for constructing bridges over waterways, railways, freeways, and canyons, or for constructing major thoroughfares. This crisis is affecting the people of the state within Orange County and elsewhere. This act will alleviate that crisis by clarifying the authority of the Board of Supervisors of the County of Orange and city councils within that county to require the payment of fees for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares, and to make appropriate administrative expenditures for these purposes. It is therefore necessary that this act go into immediate effect.

CHAPTER 1176

An act to amend Section 20022 of the Government Code and to amend Section 10334 of the Public Contract Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987.]

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

SECTION 1. Section 20022 of the Government Code is amended to read:

20022. (a) "Compensation" includes: (1) the remuneration paid in cash out of funds controlled by the employer, plus the monetary value, as determined by the board, of living quarters, board, lodging, fuel, laundry and other advantages of any nature furnished a member by his or her employer in payment for his or her services or for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence; (2) any payments in cash by his or her employer to one other than an employee for the purpose of purchasing an annuity contract for a member under an annuity plan which meets the requirements of Section 403(b) of the Internal Revenue Code of the United States; (3) any amount deducted from a member's wages for participation in a deferred compensation plan established pursuant to Chapter 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 retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of the United States; (5) any amount deducted from the member's salary for payment into a money purchase pension plan and trust which meets the requirements of

Section 401(a) of the Internal Revenue Code of the United States, (6) employer "pick up" of member contributions which meets the requirements of Section 414(h)(2) of the Internal Revenue Code of the United States; (7) any disability or workers' compensation payments to safety members in accordance with Sections 4800 and 4850 of the Labor Code; (8) 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; (9) compensation for uniforms, except as provided in Section 20022.1; (10) 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) advanced disability pension payments provided pursuant to Section 4850.3 of the Labor Code; (13) amounts not available for payment of salaries and which are applied by the employer for the purchase of a retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of the United States; (14) amounts not available for payment of salaries which are applied by the employer

for payment into a money purchase pension plan and trust which meets the requirements of Section 401(a) of the Internal Revenue Code of the United States; and (15) any other payments the board may determine not to be compensation.

(c) If the provisions of this section are in conflict with the provisions of the memoranda of understanding reached pursuant to Section 3517.5 for state bargaining units 1, 2, 4, 5, 6, 8, 9, 10, 13, 14, 15, 16, 17, 18, 19, and 20, the memoranda 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) Subdivision (c) is not applicable to base salary payments or payments for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence.

SEC. 2. Section 10334 of the Public Contract Code is amended to read:

10334. (a) No state employee shall purchase any goods, supplies, equipment, or materials from the state, unless the goods, supplies, equipment, or materials are offered to the general public in the regular course of the state's business on the same terms and conditions as those applicable to the employee. "State employee," as used in this section, means any employee of the state included within Section 82009 of the Government Code, and all officers and employees included within Section 4 of Article VII of the California Constitution, except those persons excluded from the definition of "designated employee" under the last paragraph of Section 82019 of the Government Code.

(b) Notwithstanding subdivision (a), any peace officer described in subdivision (a), (b), (g), (h), or (i) of Section 830.2 of the Penal Code, employed by the State of California for a period of more than 120 months who has been duly retired through a service retirement or a peace officer retiring from a job-incurred disability not related to a mental or emotional disorder and who has been granted the legal right to carry a concealable firearm pursuant to subdivision (a) of Section 12027 of the Penal Code may be authorized by the person's department head to purchase his or her state-issued handgun. Disability retired peace officers need not meet the 120 month employment requirement. The cost of the handgun shall be the fair market value as listed in the annual Blue Book of Gun Values or replacement cost, whichever is less, of the handgun issued as determined by the appointing power, plus a charge for the cost of handling. The retiring officer shall request to purchase his or her handgun in writing to the department within 30 calendar days of his or her retirement date.

SEC. 3. The provisions of the following memoranda of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and the

following employee organizations on the dates listed below, which require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code:

(a) Unit 2 - Association of California State Attorneys', dated September 9, 1987.

(b) Unit 9 - Professional Engineers in California Government, dated September 9, 1987.

SEC. 4. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

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

In order for peace officers who have been employed by the State of California for 10 years or more but who have had a particular state-issued handgun for less than 10 years and who have retired or are preparing for retirement, to purchase their state-issued handguns, it is necessary that this act take effect immediately.

CHAPTER 1177

An act to amend Sections 1337 and 1337.1 of, to amend and renumber Sections 1337.5 and 1337.9 of, to add Sections 1337.2, 1337.6, and 1337.8 to, and to repeal and add Sections 1337.3, 1337.7, and 1338.3 of, the Health and Safety Code, relating to nurse assistants, and making an appropriation therefor.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 26, 1987.]

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

SECTION 1. Section 1337 of the Health and Safety Code is amended to read:

1337. (a) The Legislature finds that the quality of patient care in skilled nursing and intermediate care facilities is dependent upon the competence of the personnel who staff its facilities. The Legislature further finds that direct patient care in skilled nursing and intermediate care facilities is currently rendered largely by certified nurse assistants. To assure the availability of trained personnel in skilled nursing and intermediate care facilities, the Legislature intends that all such facilities in this state participate in approved training programs established under this article. This article shall not apply to intermediate care facilities/developmentally disabled habilitative which have staff

training programs approved by the State Department of Developmental Services, general acute care hospitals, acute psychiatric hospitals, or special hospitals.

(b) For the purpose of this article:

(1) "Nurse assistant" means any unlicensed aide, assistant, or orderly, who performs nursing services directed at the safety, comfort, personal hygiene, or protection of patients in a skilled nursing or intermediate care facility.

(2) "Approved training program" means a program for the training of nurse assistants which meets the criteria established and approved under this chapter.

(3) "Certified nurse assistant" means any person who holds himself or herself out as a certified nurse assistant and who, for compensation, performs basic patient care services directed at the safety, comfort, personal hygiene, and protection of patients, and is certified as having completed the requirements of this article. These services shall not include any services which may only be performed by a licensed person and otherwise shall be performed under the supervision of a registered nurse, as defined in Section 2725 of the Business and Professions Code, or a licensed vocational nurse, as defined in Section 2859 of the Business and Professions Code.

(4) "State department" means the State Department of Health Services.

SEC. 2. Section 1337.1 of the Health and Safety Code is amended to read:

1337.1. A skilled nursing or intermediate care facility shall adopt an approved training program which meets regulations established by the state department. The approved training program shall consist of at least the following:

(a) An orientation program to be given to newly employed nurse assistants prior to providing direct patient care in skilled nursing or intermediate care facilities.

(b) A certification training program consisting of training on basic nursing skills, patient safety and rights, and the social and psychological problems of patients, and supervised on-the-job training clinical practice.

(c) Continuing in-service training to assure continuing competency in existing and new nursing skills.

SEC. 3. Section 1337.2 is added to the Health and Safety Code, to read:

1337.2. (a) An applicant for certification as a certified nurse assistant shall comply with each of the following:

(1) Be at least 16 years of age.

(2) Have successfully completed a training program approved by the department, which includes an examination to test the applicant's knowledge and skills related to basic patient care services.

(3) Not be subject to denial of certification under this article.

(4) Pay the application fee established by the department

pursuant to this article.

(b) The state department may establish procedures for issuing certificates which recognize certification programs in other states and countries.

(c) Upon written application and receipt of the required application fee, the state department may issue a certificate to any applicant who possesses a valid state license as either a licensed vocational nurse or a registered nurse issued by any other state or foreign country, and who, in the opinion of the state department, has the qualifications specified in this article.

(d) Upon written application, receipt of the required application fee, and documentation of passing an approved examination administered by an approved certification training program, the state department may issue a certificate to any applicant who has completed the fundamentals of nursing courses in a school for registered nurses, approved by the Board of Registered Nursing, or in a school for licensed vocational nurses, approved by the Board of Vocational Nurse and Psychiatric Technician Examiners, which are substantially equivalent to the certification training program specified in this article.

(e) Notwithstanding any other provision of this article, any person holding a nurse assistant certificate issued by the state department prior to the enactment of this article, shall be issued a certificate under this article if the holder meets all of the following requirements:

(1) Submits an application on a form provided by the state department.

(2) Has not committed acts or crimes constituting grounds for denial of certification under this article.

(3) Pays the renewal fee established by the state department pursuant to this article.

(f) Certified nurse assistants, renewing according to subdivision (e), whose year of birth was in an odd-numbered year, shall submit an application for renewal during calendar year 1989, and those whose year of birth was in an even-numbered year shall submit an application for renewal during calendar year of 1990.

(g) Every person certified under this article may be known as a "certified nurse assistant" and may place the letters CNA after his or her name.

(h) Any person holding a nurse assistant certificate issued by the state department prior to January 1, 1988, may continue to hold himself or herself out as a nurse assistant until January 1, 1991. Thereafter, it shall be unlawful for any person not certified under this article to hold himself or herself out to be a certified nurse assistant. Any person willfully making any false representation as being a certified nurse assistant is guilty of a misdemeanor.

(i) Any person who violates this article is guilty of a misdemeanor and, upon a conviction thereof, shall be punished by imprisonment in the county jail for not more than 180 days, or by a fine of not less

than twenty dollars ($20) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

SEC. 4. Section 1337.3 of the Health and Safety Code is repealed.

SEC. 5. Section 1337.3 is added to the Health and Safety Code, to read:

1337.3. (a) The state department shall prepare and maintain a list of approved training programs for nurse assistant certification. The list shall include training programs conducted by skilled nursing or intermediate care facilities, as well as local agencies and education programs. Clinical portions of the training programs may be obtained as on-the-job training, supervised by a qualified director of staff development or licensed nurse.

(b) It shall be the duty of the state department to inspect a representative sample of training programs. If the state department determines that any training program is not complying with regulations, notice thereof in writing shall be immediately given to the program. If the program has not been brought into compliance within a reasonable time, the program may be removed from the approved list and notice thereof in writing given to it. Programs removed under this article shall be afforded an opportunity to request reinstatement of program approval at any time.

(c) Notwithstanding provisions of Section 1337.1, the approved training program shall consist of at least the following:

(1) A 16-hour orientation program to be given to newly employed nurse assistants, eight hours of which shall be given prior to providing direct patient care.

(2) A certification training program consisting of at least 50 classroom hours of training on basic nursing skills, patient safety and rights, and the social and psychological problems of patients, as well as at least 100 hours supervised and on-the-job training clinical practice. The 100 hours may consist of normal employment as a nurse assistant under the supervision of either the director of nurse training or licensed nurse. The 50 classroom hours of training may be conducted within a skilled nursing or intermediate care facility, or in an educational institution.

(d) The state department, in consultation with the State Department of Education and other appropriate organizations, shall develop criteria for approving training programs, which includes program content for orientation, training, in-service and the examination for testing knowledge and skills related to basic patient care services and shall develop a plan that identifies and encourages career ladder opportunities for certified nurse assistants. This group shall also recommend, and the department shall promulgate, regulation changes necessary to provide for patient care when facilities utilize noncertified nurse assistants who are performing direct patient care. The requirements of this subdivision shall be established by January 1, 1989.

(e) This article shall not apply to a program conducted by any church or denomination for the purpose of training the adherents of

the church or denomination in the care of the sick in accordance with its religious tenets.

SEC. 6. Section 1337.5 of the Health and Safety Code is amended and renumbered to read:

1337.4. Every skilled nursing or intermediate care facility shall designate a licensed nurse as a director of nurse training who shall be responsible for the management of the approved training program.

SEC. 7. Section 1337.6 is added to the Health and Safety Code, to read:

1337.6. (a) Certificates issued under this article shall be renewed every two years and renewal shall be conditional upon the certificateholder submitting documentation of completion of 24 hours of in-service training per year obtained through an approved training program or as approved by the state department.

(b) Certificates issued under this article shall expire on the certificateholder's birthday. If the certificate is renewed more than 30 days after its expiration, the certificateholder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this article.

(c) To renew an unexpired certificate, the certificateholder shall, on or before the certificate expiration date, apply for renewal on a form provided by the state department, pay the renewal fee prescribed by this article, and submit documentation of the required in-service training.

(d) The state department shall give written notice to a certificateholder 90 days in advance of the renewal date and, 90 days in advance of the expiration of the fourth year that a renewal fee has not been paid, and shall give written notice informing the certificateholder, in general terms, of the provisions of this article.

(e) Except as otherwise provided in this article, an expired certificate may be renewed at any time within four years after its expiration on the filing of an application for renewal on a form prescribed by the state department, and payment of the renewal fee in effect on the date the application is filed, and documentation of the required in-service education.

Renewal under this article shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee is paid, whichever occurs last. If so renewed, the certificate shall continue in effect until the date provided for in this article, when it shall expire if it is not again renewed.

(f) A suspended certificate is subject to expiration and shall be renewed as provided in this article, but this renewal does not entitle the certificateholder, while the certificate remains suspended, and, until it is reinstated, to engage in the certified activity, or in any other activity or conduct in violation of the order or judgment by which the certificate was suspended.

(g) A revoked certificate is subject to expiration as provided in

this article, but it cannot be renewed. If reinstatement of the certificate is approved by the state department, the certificateholder, as a condition precedent to reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the date the application for reinstatement is filed, plus the delinquency fee, if any, accrued at the time of its revocation.

(h) A certificate which is not renewed within four years after its expiration cannot be renewed, restored, reissued, or reinstated except upon completion of a certification program unless deemed otherwise by the state department if all of the following conditions are met:

(1) No fact, circumstance, or condition exists which, if the certificate were issued, would justify its revocation or suspension.

(2) The person pays the application fee provided for by this article.

(3) The person takes and passes any examination that may be required of an applicant for a new certificate at that time, which shall be given by an approved provider of a certification training program.

SEC. 8. Section 1337.7 of the Health and Safety Code is repealed.

SEC. 9. Section 1337.7 is added to the Health and Safety Code, to read:

1337.7. (a) A fee shall be established by the state department for the issuance and renewal of certificates, replacement of certificates, and penalties for late filing of renewals.

(b) The fees established by the state department to administer and enforce this article shall be according to the following schedule and shall not exceed the actual costs of the department in providing the service:

(1) The application fee at not more than fifteen dollars ($15).

(2) The renewal fee at not more than twenty dollars ($20).

(3) The delinquency fee at not more than 50 percent of the renewal fee.

(4) The duplicate fee for lost certificates at no more than five dollars ($5).

(c) The penalty for submitting insufficient funds or any fictitious check, draft, or order on any bank or depository for payment of any fee to the state department shall be ten dollars ($10).

SEC. 10. Section 1337.8 is added to the Health and Safety Code, to read:

1337.8. (a) Every certified nurse assistant may be disciplined as provided in this article.

(b) The state department may discipline the holder of any certificate, whose default has been entered or who has been found by the state department to be guilty, by any of the following methods:

(1) Suspending judgment.

(2) Placing the holder's certificate on probation.

(3) Suspending the right to practice as a certified nurse assistant for a period not exceeding one year.

(4) Revoking the certificate.

(c) If a certificate is suspended, the holder shall not be entitled to practice during the term of suspension, and shall return his or her certificate to the state department.

Upon the expiration of the term of suspension, he or she shall be reinstated by the state department and shall be entitled to resume practice unless it is established to the satisfaction of the state department that the person has practiced as a certified nurse assistant in California during the term of suspension. In this event, the state department shall revoke the person's certificate.

(d) The state department may suspend or revoke a certificate issued under this article for any of the following:

(1) Unprofessional conduct, which includes incompetence or gross negligence in carrying out usual nursing functions.

(2) Procuring a certified nurse assistant certificate by fraud or mispresentation, or mistake.

(3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of, this article.

(4) Making or giving any false statement or information in conjunction with the application for issuance of a certified nurse assistant certificate.

(5) Conviction of a crime substantially related to the qualifications, functions, and duties of a certified nurse assistant, in which event the record of the conviction shall be conclusive evidence thereof.

(6) Impersonating any applicant, or acting as proxy for an applicant, in any examination required under this article for the issuance of a certificate.

(7) Impersonating another certified nurse assistant, a licensed vocational nurse, or a registered nurse, or permitting or allowing another person to use a certificate for the purpose of nursing the sick or afflicted.

(8) Aiding or assisting, or agreeing to aid or assist, any person or persons, whether a licensed physician or not, in the performance of, or arranging for, a violation of Article 12 (commencing with Section 2220) of Chapter 5.

(e) In addition to other acts constituting unprofessional conduct within the meaning of this article, it is unprofessional conduct for a person certified under this article to do any of the following:

(1) Conviction for, or use of, any narcotic drug, as defined in Division 10 (commencing with Section 11000), or any dangerous drug, as defined in Article 7 (commencing with Section 4211) of Chapter 9, or alcoholic beverages, to an extent or in a manner dangerous or injurous to the certified nurse assistant, or any other person, or the public, to the extent that this use impairs the ability to conduct, with safety to the public, the practice authorized by a certificate.

(2) Abuse, whether verbal, physical, or mental, of a patient in a

health care facility.

(f) A plea or verdict of guilty, or a conviction following a plea of nolo contendere, made to a charge substantially related to the qualifications, functions, and duties of a certified nurse assistant shall be deemed a conviction within the meaning of this article. The state department may order the certificate suspended or revoked or may decline to issue a certificate when the time for appeal has elapsed, or the judgment or conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person 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.

(g) The state department shall notify the certificateholder of his or her right to an appeal of the suspension or revocation of the certificate pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 11. Section 1337.9 of the Health and Safety Code is amended and renumbered to read:

1337.5. (a) Approved training programs shall be conducted during the normal working hours of the nurse assistant unless the nurse assistant receives at least the normal hourly wage for any additional time spent in the training program.

(b) On or after September 1, 1978, only the following persons may be employed by a skilled nursing facility or intermediate care facility as a nurse assistant:

(1) A certified nurse assistant.

(2) A nurse assistant hired on a temporary basis who has been employed less than a maximum total of three months in skilled nursing facilities or intermediate care facilities, including the current period of employment.

(3) A nurse assistant who, within three months of the date of employment, is enrolled in an approved certification training program which requires completion not more than six months from the date of employment; provided, that the employing facility may apply to the state department for an extension of the deadline under this paragraph for enrollment in a certification training program if the facility has a contract to obtain the training from an educational institution, approved by the facility, which operates on a semester basis and cannot enroll nursing assistant students except at semester intervals; and the delayed enrollment will not postpone completion of certification training beyond nine months from the date of employment.

SEC. 12. Section 1338.3 of the Health and Safety Code is repealed.

SEC. 13. Section 1338.3 is added to the Health and Safety Code, to read:

1338.3. The State Director of Health Services may adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 3 of the Government

Code to implement this article. The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, or safety. Notwithstanding 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 article shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

SEC. 14. The sum of one hundred seventy-eight thousand dollars ($178,000) is appropriated from the General Fund to the State Department of Health Services for the purposes 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 1178

An act to add Section 25210.4f to the Government Code, relating to districts.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 26, 1987]

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

SECTION 1. Section 25210.4f is added to the Government Code, to read:

25210.4f. In Orange County, a county service area, in addition to other services which it is empowered to provide, may exercise the powers of a harbor improvement district pursuant to Part 2 (commencing with Section 5800) of Division 8 of the Harbors and Navigation Code and the Orange County Flood Control District pursuant to Chapter 723 of the Statutes of 1927 and as subsequently amended. Notwithstanding Sections 25210.10 and 25210.10a, the county service area may include all the territory, both incorporated and unincorporated, within the County of Orange without the adoption of resolutions of consent adopted by the legislative bodies of the cities. These services and facilities shall be deemed "miscellaneous extended services."

SEC. 2. Notwithstanding the provisions of Sections 54902 and 54903 of the Government Code, the formation of a county service area in the County of Orange pursuant to Section 25210.4f of the Government Code shall be effective for the purposes of the allocation of property tax revenues pursuant to Sections 96 through

99 of the Revenue and Taxation Code for the 1988–89 fiscal year if the statement and map or plat required by Section 54900 of the Government Code are filed on or before March 1, 1988.

SEC. 3. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances involving the County of Orange and two of the special districts which it governs: the Orange County Harbor, Beaches, and Parks District and the Orange County Flood Control District. The Legislature finds, therefore, that this special act which applies only to the County of Orange and the special districts which it governs is necessary.

CHAPTER 1179

An act to add Section 701.5 to the Public Utilities Code, relating to the Public Utilities Commission.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987.]

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

SECTION 1. The Legislature hereby finds and declares as follows:

(a) A number of electrical, gas, and telephone corporations are using shareholder earnings that have not been reinvested in the public utility corporation to diversify into economically competitive ventures.

(b) While the use of shareholder earnings for this purpose is appropriate, some electrical, gas, and telephone corporations may also be incurring public utility debt or pledging public utility assets and credit in support of competitive diversification ventures which results in high risks for the customers and subscribers of these corporations.

(c) Except in limited circumstances approved by the Public Utilities Commission, electrical, gas, and telephone corporations should be prohibited from incurring public utility debt or pledging public utility assets and credit in support of competitive diversification ventures.

SEC. 2. Section 701.5 is added to the Public Utilities Code, to read:

701.5. With respect to financing arrangements which are established after January 1, 1988, no electrical, gas, or telephone corporation, whose rates are set by the commission on a cost-of-service basis, shall issue any bond, note, lien, guarantee, or indebtedness of any kind pledging the utility assets or credit for or on behalf of any subsidiary or affiliate of, or corporation holding a

controlling interest in, the electrical, gas, or telephone corporation. The commission may, however, authorize an electrical, gas, or telephone corporation to issue any bond, note, lien, guarantee, or indebtedness pledging the utility assets or credits as follows:

(a) For or on behalf of a subsidiary if its revenues and expenses are included by the commission in establishing rates for the electrical, gas, or telephone corporation.

(b) For or on behalf of a subsidiary if it is engaged in a regulated public utility business in this state or in any other state.

(c) For or on behalf of a subsidiary or affiliate if it engages in activities which support the electric, gas, or telephone corporation in its operations or service, these activities are, or will be, regulated either by the commission or a comparable federal agency, and the issuance of the bond, note, lien, guarantee, or indebtedness is specifically approved in advance by the commission.

The commission shall not approve the bond, note, lien, guarantee, or indebtedness unless the commission finds and determines that the proposed financing will benefit the interests of the utility and its ratepayers.

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 1180

An act to amend Section 10652 of the Fish and Game Code, relating to wild animals.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 26, 1987]

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

SECTION 1. Section 10652 of the Fish and Game Code is amended to read:

10652. In the Mt. Tamalpais Game Refuge, no threatened, endangered, or fully-protected birds or mammals may be taken under any permit issued by the department.

Except for wild pigs, it is unlawful to take any bird or mammal under a permit issued by the department unless the person possessing the permit is accompanied by a member of the commission, a deputy of the department, or a sheriff or deputy sheriff of Marin County.

CHAPTER 1181

An act to amend Sections 19880 and 20022 of the Government Code, relating to employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 26, 1987]

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

SECTION 1. Section 19880 of the Government Code is amended to read:

19880. A disabled employee is eligible to receive nonindustrial disability benefits under this article equal to one-seventh of his or her weekly benefit amount specified in Section 19879 for each full day during which he or she is unemployed due to a disability only if the Director of Employment Development finds that:

(a) He or she has made a claim for disability benefits as required by authorized regulations.

(b) He or she has been disabled for a waiting period of seven consecutive days during each disability benefit period with respect to which waiting period no benefits under this article are payable except for confinement in a hospital or nursing home for at least one day.

(c) He or she has exhausted all the leave to which he or she was entitled under Article 3 (commencing with Section 19859). A person who elects to use vacation credits or sick leave credits prior to receiving nonindustrial disability benefits is not required to exhaust the leave, as described in this subdivision, if he or she is a permanent employee who meets any of the following criteria:

(1) Is excluded from the definition of state employee contained in subdivision (c) of Section 3513.

(2) Is a supervisory employee, as defined in Section 3522.1.

(3) Is a nonelected officer or employee of the executive branch of state government and is not a member of the civil service.

(d) Except for an individual described in Section 2709 of the Unemployment Insurance Code, he or she has submitted to any reasonable examinations as the Director of Employment Development may require for the purpose of determining his or her mental or physical disability.

(e) He or she has filed a certificate described in Section 2708 or 2709 of the Unemployment Insurance Code.

(f) Except as otherwise provided, he or she meets, in all other respects, the eligibility requirements imposed on individuals by Part 2 (commencing with Section 2601) of Division 1 of the Unemployment Insurance Code for receipt of unemployment compensation disability benefits.

In case of any conflict between Part 2 (commencing with Section

2601) of the Unemployment Insurance Code and this chapter, this chapter shall prevail.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 2. Section 20022 of the Government Code is amended to read:

20022. (a) "Compensation" includes: (1) the remuneration paid in cash out of funds controlled by the employer, plus the monetary value, as determined by the board, of living quarters, board, lodging, fuel, laundry and other advantages of any nature furnished a member by his or her employer in payment for his or her services or for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence; (2) any payments in cash by his or her employer to one other than an employee for the purpose of purchasing an annuity contract for a member under an annuity plan which meets the requirements of Section 403(b) of the Internal Revenue Code of the United States; (3) any amount deducted from a member's wages for participation in a deferred compensation plan established pursuant to Chapter 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 retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of the United States; (5) any amount deducted from the member's salary for payment into a money purchase pension plan and trust which meets the requirements of Section 401(a) of the Internal Revenue Code of the United States; (6) employer "pick up" of member contributions which meets the requirements of Section 414(h)(2) of the Internal Revenue Code of the United States; (7) any disability or workers' compensation payments to safety members in accordance with Sections 4800 and 4850 of the Labor Code; (8) 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; (9) compensation for uniforms, except as provided in Section 20022.1; (10) 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) advanced disability pension payments provided pursuant to Section 4850.3 of the Labor Code; (13) amounts not available for payment of salaries and which are applied by the employer for the purchase of a retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of the United States; (14) amounts not available for payment of salaries which are applied by the employer for payment into a money purchase pension plan and trust which meets the requirements of Section 401(a) of the Internal Revenue Code of the United States; and (15) any other payments the board may determine not to be compensation.

(c) If the provisions of this section are in conflict with the provisions of the memoranda of understanding reached pursuant to Section 3517.5 for state bargaining units 1, 2, 4, 5, 6, 8, 9, 10, 13, 14, 15, 16, 17, 18, 19, and 20, the memoranda 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) Subdivision (c) is not applicable to base salary payments or any payments for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence.

SEC. 3. The provisions of the following memoranda of

understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and the following employee organizations on the dates listed below, which require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code:

(a) Unit 1 - California State Employees' Association, dated August 25, 1987.

(b) Unit 4 - California State Employees' Association, dated August 26, 1987.

(c) Unit 14 - California State Employees' Association, dated September 9, 1987.

(d) Unit 15 - California State Employees' Association, dated August 26, 1987.

(e) Unit 17 - California State Employees' Association, dated August 25, 1987.

(f) Unit 19 - American Federation of State, County, and Municipal Employees, dated September 3, 1987.

(g) Unit 20 - California State Employees' Association, dated August 22, 1987.

SEC. 4. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

SEC. 5. The sum of one hundred eighty-seven thousand dollars ($187,000) is hereby appropriated from the General Fund to the Trustees of the California State University in augmentation of Item 6610-031-001 (Schedule (b)) of Chapter 135 of the Statutes of 1987. This appropriation shall be utilized to implement the provisions of the Memorandum of Understanding between the Trustees of the California State University and the California State Employees' Association, California State University Units 2, 5, 7, and 9.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable for the entire 1987–88 fiscal year, it is necessary for this act to take effect immediately.

CHAPTER 1182

An act to add Section 13008 to the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987.]

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

SECTION 1. Section 13008 is added to the Welfare and Institutions Code, to read:

13008. Federal funds for Refugee Social Services that are allocated to county welfare departments for Title XX social services shall be allocated to each county in the same proportion that refugees on aid in each county bear to the total refugees on aid in the state. Federal funds for Targeted Assistance Services that are allocated to county welfare departments shall be allocated to each targeted county in the same proportion that refugees on aid bear to the total refugees on aid in the targeted counties. The allocation shall be developed from caseload statistics from the previous fiscal year which include refugees in the following programs:

(a) Time-eligible and time-expired refugees in the Aid to Families with Dependent Children (AFDC) program.

(b) General Assistance.

(c) The Refugee Cash Assistance Program.

(d) The Refugee Demonstration Program.

CHAPTER 1183

An act to add Section 492 to the Business and Professions Code, relating to healing arts.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987]

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

SECTION 1. Section 492 is added to the Business and Professions Code, to read:

492. Notwithstanding any other provision of law, successful completion of a drug diversion program under Chapter 2.5 (commencing with Section 1000) of Title 6 of Part 2 of the Penal Code, shall not prohibit any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded

in a record pertaining to an arrest.

This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division.

CHAPTER 1184

An act to amend Section 30801 of the Food and Agricultural Code, to amend Sections 1780, 15646, 25355, 38792, 53077.5, and 57384 of the Government Code, to amend Sections 1920 and 6490 of the Health and Safety Code, to add Section 15210 to the Probate Code, to amend Section 5554 of the Public Resources Code, to amend Sections 98.6, 2189, 3708, 3716, 4105.2, 4222, 4336, 4337, 5097, and 5097.2 of, to repeal and add Section 2922 of, and to repeal Section 4105.3 of, the Revenue and Taxation Code, to amend Sections 22507, 22526, 22567, 22572, 22587, 22594, 22605, 22620, 22646, and 22662.5 of the Streets and Highways Code, and to amend Section 21967 of the Vehicle Code, relating to local government.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 26, 1987.]

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

SECTION 1. Section 30801 of the Food and Agricultural Code is amended to read:

30801. (a) A board of supervisors may provide for the issuance of serially numbered metallic dog licenses pursuant to this section. The dog licenses shall be:

(1) Stamped with the name of the county and the year of issue.

(2) Unless the board of supervisors designates the animal control department to issue the licenses, issued by the county clerk directly or through judges of justice or municipal courts, to owners of dogs, that make application.

(b) The licenses shall be issued for a period of not to exceed two years.

(c) In addition to the authority provided in subdivisions (a) and (b), a license may be issued, as provided by this section, by a board of supervisors for a period not to exceed three years for dogs that have attained the age of 12 months, or older, and who have been vaccinated against rabies. The person to whom the license is to be issued pursuant to this subdivision may choose a license period as established by the board of supervisors of up to one, two, or three years. However, when issuing a license pursuant to this subdivision, the license period shall not extend beyond the remaining period of validity for the current rabies vaccination.

SEC. 2. Section 1780 of the Government Code is amended to

read:

1780. (a) Notwithstanding any other provision of law, a vacancy in any elective office on the governing board of a special district, other than those specified in Section 1781, shall be filled as provided in this section. The remaining district board members may fill the vacancy by appointment. The person appointed shall hold office until the next district general election that is scheduled 130 or more days after the effective date of the vacancy, unless an election is also held on the same date for the purpose of electing a director to serve a full term in the same office to which the person was appointed, in which event the person appointed to the vacancy shall fill the balance of the unexpired term of his or her predecessor. Appointments pursuant to this subdivision shall be made within a period of 60 days immediately subsequent to the effective date of the vacancy and a notice of the vacancy shall be posted in three or more conspicuous places in the district at least 15 days before the appointment is made. In lieu of making an appointment the remaining members of the board may within 60 days of the vacancy call an election to fill the vacancy. The election shall be held on the next available election date provided by Chapter 1 (commencing with Section 2500) of Division 4 of the Elections Code that is 130 or more days after the vacancy occurs.

(b) If the vacancy is not filled by the district board as specified, or if the board has not called for an election within 60 days of the vacancy, the city council of the city in which the district is wholly located, or if the district is not wholly located within a city, the board of supervisors of the county representing the larger portion of the district area in which the election to fill the vacancy will be held, may fill the vacancy within 90 days of the vacancy, or the city council or county supervisors may order the district to call an election to fill the vacancy. The election shall be held on the next available election date provided by Chapter 1 (commencing with Section 2500) of Division 4 of the Elections Code that is 130 or more days after the vacancy occurs.

(c) (1) If within 90 days of the vacancy the remaining members of the board or the appropriate board of supervisors or city council have not filled the vacancy and no election has been called for, the district shall call an election to fill the vacancy. The election shall be held on the next available election date provided by Chapter 1 (commencing with Section 2500) of Division 4 of the Elections Code that is 130 or more days after the vacancy occurs.

(2) If the number of remaining members of the board falls below a quorum, at the request of the district secretary, or a remaining board member, the board of supervisors or the city council may waive the 60-day period provided in subdivision (a) and appoint immediately to fill the vacancy as provided in subdivision (a), or may call an election to fill the vacancy. The election shall be held on the next available election date provided by Chapter 1 (commencing with Section 2500) of Division 4 of the Elections Code that is held 130

or more days after the vacancy occurs.

The board of supervisors or the city council shall only fill enough vacancies to provide the board with a quorum.

(d) Persons appointed to fill a vacancy shall hold office until the next district general election and thereafter until the person elected at that election to fill the vacancy has been qualified, but persons elected to fill a vacancy shall hold office for the unexpired balance of the term of office.

SEC. 3. Section 15646 of the Government Code is amended to read:

15646. Copies of final survey reports shall be filed with the Governor, Attorney General, and with the assessors, the boards of supervisors, the grand juries and assessment appeals boards of the counties to which they relate, and to other assessors of the counties unless one of these assessors notifies the State Board of Equalization to the contrary and, on the opening day of each regular session, with the Senate and Assembly.

SEC. 4. Section 25355 of the Government Code is amended to read:

25355. The board may accept or reject any gift, bequest, or devise made to or in favor of the county, or to or in favor of the board in trust for any public purpose. The board may delegate to any county officer or employee the power to accept any gift, bequest, or devise made to or in favor of the county, the value of which does not exceed ten thousand dollars ($10,000). The board may hold and dispose of the property and the income and increase thereof for those lawful uses and purposes as are prescribed in the terms of the gift, bequest, or devise.

SEC. 5. Section 38792 of the Government Code is amended to read:

38792. (a) The legislative body of a city may impose and collect a license fee for a period not to exceed two years and not exceeding the cost of services relating to dogs, including, but not limited to, animal shelters and control and the programs specified in Section 30652 of the Food and Agricultural Code, provided by the city, on every dog owned or harbored within the city limits. The license fee for spayed bitches and neutered males shall not exceed 50 percent of the license fee otherwise imposed.

(b) In addition to the authority provided in subdivision (a), the legislative body of a city may impose and collect a license fee, as described in subdivision (a), for a period not to exceed three years for dogs that have attained the age of 12 months or older and have been vaccinated. The person from whom the license fee is collected pursuant to this subdivision may choose a license period as established by the legislative body of up to one, two, or three years. However, when imposing and collecting a license fee pursuant to this subdivision, the license period shall not extend beyond the remaining period of validity for the current rabies vaccination. The license fee for spayed bitches and neutered males, under this

subdivision, shall not exceed 50 percent of the license fee otherwise imposed.

SEC. 6. Section 53077.5 of the Government Code is amended to read:

53077.5. (a) Except as otherwise provided in subdivision (b), any local agency which imposes any fees or charges on a residential development for the construction of public improvements or facilities shall not require the payment of those fees or charges, notwithstanding any other provision of law, until the date of the final inspection, or the date the certificate of occupancy is issued, whichever occurs first, provided, that utility service fees may be collected at the time an application for utility service is received. If the residential development contains more than one dwelling, the local agency may determine whether the fees or charges shall be paid on a pro rata basis for each dwelling when it receives its final inspection or certificate of occupancy, whichever occurs first; on a pro rata basis when a certain percentage of the dwellings have received their final inspection or certificate of occupancy, whichever occurs first; or on a lump-sum basis when the first dwelling in the development receives its final inspection or certificate of occupancy, whichever occurs first.

(b) Notwithstanding subdivision (a), the local agency may require the payment of those fees or charges at an earlier time if (1) the local agency determines that the fees or charges will be collected for public improvements or facilities for which an account has been established and funds appropriated and for which the local agency has adopted a proposed construction schedule or plan prior to final inspection or issuance of the certificate of occupancy or (2) the fees or charges are to reimburse the local agency for expenditures previously made. "Appropriated," as used in this subdivision, means authorization by the governing body of the local agency for which the fee is collected to make expenditures and incur obligations for specific purposes.

(c) "Local agency," as used in this section, means a county, city, or city and county, whether general law or chartered, or district. "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.

(d) This section applies only to fees collected by a local agency to fund the construction of public improvements or facilities. It does not apply to fees collected to cover the cost of code enforcement or inspection services, or to other fees collected to pay for the cost of enforcement of local ordinances or state law.

(e) "Final inspection" or "certificate of occupancy," as used in this section, have the same meaning as described in Sections 305 and 307 of the Uniform Building Code, International Conference of Building Officials, 1985 Edition.

(f) The Legislative Analyst shall submit a report to the Legislature by January 1, 1992, which evaluates the implementation of this

section. In preparing the report, the Legislative Analyst shall consult with individuals and associations who, in the opinion of the Legislative Analyst, are knowledgeable about the impact of this section. Those individuals and associations shall include, but not be limited to, representatives of builders, landowners, planners, civil engineers, land surveyors, counties, cities, school districts, special districts, and public utilities.

(g) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1993, deletes or extends that date.

SEC. 7. Section 57384 of the Government Code is amended to read:

57384. (a) Except as provided in subdivision (b), whenever a city has been incorporated from territory formerly unincorporated, the board of supervisors shall continue to furnish, without additional charge, to the area incorporated all services furnished to the area prior to the incorporation. Those services shall be furnished for the remainder of the fiscal year during which the incorporation became effective or until the city council requests discontinuance of the services, whichever occurs first.

(b) This subdivision applies only to incorporations for which the petition or resolution of application for incorporation is filed with the commission on or after January 1, 1987. Prior to the commission adopting a resolution making determinations, the board of supervisors may request that the city reimburse the county for the net cost of services provided pursuant to subdivision (a). The commission shall impose this requirement as a term and condition of its resolution. The city shall be obligated to reimburse the county within five years of the effective date of the incorporation or for a period in excess of five years, if the board of supervisors agrees to a longer period. As used in this subdivision, "net cost of services" means the total direct and indirect expense to the county of providing services, as determined pursuant to paragraph (2) of subdivision (c) of Section 56842, adjusted by any subsequent change in the California Consumer Price Index, less any revenues which the county retains that were generated from the formerly unincorporated territory during the period of time the services are furnished pursuant to subdivision (a). This subdivision applies only to those services which are to be assumed by the city.

(c) At the request of the city council, the board of supervisors, by resolution, may determine to furnish, without charge, to the area incorporated all or a portion of services furnished to the area prior to the incorporation for an additional period of time after the end of the fiscal year during which the incorporation became effective. The additional period of time after the end of the fiscal year during which the incorporation became effective for which the board of supervisors determines to provide services, without charge, and the specific services to be provided shall be specifically stated in the resolution adopted by the board of supervisors.

SEC. 8. Section 1920 of the Health and Safety Code is amended to read:

1920. In rabies areas, all of the following shall apply:

(a) Every dog owner, after his or her dog attains the age of four months, shall no less than once every two years secure a license for the dog as provided by ordinance of the responsible city, city and county, or county. License fees shall be fixed by the responsible city, city and county, or county, at an amount not to exceed limitations otherwise prescribed by state law or city, city and county, or county charter.

(b) Every dog owner, after his or her dog attains the age of four months, shall, at intervals of time not more often than once a year, as may be prescribed by the state department, procure its vaccination by a licensed veterinarian with a canine antirabies vaccine approved by, and in a manner prescribed by the state department.

(c) All dogs under four months of age shall be confined to the premises of, or kept under physical restraint by, the owner, keeper, or harborer. Nothing in this chapter shall be construed to prevent the sale or transportation of a puppy four months old or younger.

(d) Any dog in violation of the provisions of this article and any additional provisions which may be prescribed by any local governing body, shall be impounded, as provided by local ordinance.

(e) It shall be the duty of the governing body of each city, city and county, or county to maintain or provide for the maintenance of a pound system and a rabies control program for the purpose of carrying out and enforcing the provisions of this section.

(f) It shall be the responsibility of each city, county, or city and county to provide dog vaccination clinics, or to arrange for dog vaccination at clinics operated by veterinary groups or associations, held at strategic locations throughout each city, city and county, or county. The vaccination and licensing procedures may be combined as a single operation in the clinics. No charge in excess of the actual cost shall be made for any one vaccination at a clinic. No owner of a dog shall be required to have his or her dog vaccinated at a public clinic if the owner elects to have the dog vaccinated by a licensed veterinarian of the owner's choice.

All public clinics shall be required to operate under antiseptic immunization conditions comparable to those used in the vaccination of human beings.

(g) In addition to the authority provided in subdivision (a), the ordinance of the responsible city, city and county, or county may provide for the issuance of a license for a period not to exceed three years for dogs that have attained the age of 12 months or older and have been vaccinated against rabies. The person to whom the license is issued pursuant to this subdivision may choose a license period as established by the governing body of up to one, two, or three years. However, when issuing a license pursuant to this subdivision, the license period shall not extend beyond the remaining period of

validity for the current rabies vaccination. A dog owner who complies with this subdivision shall be deemed to have complied with the requirements of subdivision (a).

SEC. 9. Section 6490 of the Health and Safety Code is amended to read:

6490. (a) A general regulation of the board shall be entered in its minutes, and shall be published once in a newspaper published in the district, if there is one, and if not, then it shall be posted for one week in three public places in the district.

(b) The publication or posting of general regulations, as required by subdivision (a), may be satisfied by either of the following actions:

(1) The board of directors may publish a summary of a proposed regulation or ordinance or proposed amendment to an existing regulation or ordinance. This summary shall be prepared by an official designated by the board. A summary shall be published along with the names of those board members voting for and against the regulation or ordinance or amendment, and a certified copy of the full text of the proposed regulation or ordinance or proposed amendment to same shall be posted in the office of the clerk of the board, along with the names of those board members voting for and against the regulation, ordinance, or amendment.

(2) If the official designated by the board determines that it is not feasible to prepare a fair and adequate summary of the regulation or ordinance or amendment to same, and if the board so orders, a display advertisement of at least one-quarter of a page in a newspaper published in the district shall be published. The advertisement shall indicate the general nature of, and provide information about, the regulation, ordinance, or amendment, including information sufficient to enable the public to obtain copies of the complete text of the regulation or ordinance or amendment to same, and the names of those board members voting for and against the regulation, ordinance, or amendment.

(c) A subsequent order of the board that publication or posting has been made is conclusive evidence that the publication or posting has been properly made.

(d) A general regulation takes effect upon expiration of the week of publication or posting.

SEC. 10. Section 15210 is added to the Probate Code, to read:

15210. A trust created pursuant to this chapter which relates to real property may be recorded in the office of the county recorder in the county where all or a portion of the real property is located.

SEC. 11. Section 5554 of the Public Resources Code is amended to read:

5554. The board, at or before its first meeting following the end of its fiscal year, shall cause to be rendered no later than 90 days after the first meeting following the end of its fiscal year and to be published at least once, in a newspaper of general circulation printed and published in the district, a verified certified public accountant's or verified public accountant's audit of the financial condition of the

district, showing particularly the receipts and disbursements and balance of assets and liabilities for the last preceding year.

SEC. 12. Section 98.6 of the Revenue and Taxation Code is amended to read:

98.6. (a) Notwithstanding any other provision of this chapter, the amount allocated pursuant to Sections 96 or 97, and 98, to a special district, as defined in Article 1 (commencing with Section 2201) of Chapter 3 of Part 4, excluding multicounty districts, and the amount allocated pursuant to Section 75.70 to a 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 reduced by an amount computed as follows:

(1) A ratio shall be computed for each of the special districts equal to the amount of state assistance payment for the special district for the 1978–79 fiscal year divided by the sum of the state assistance payment for the special district plus the amount of property tax revenue allocated to the special district for the 1978–79 fiscal year pursuant to Section 26912 of the Government Code.

(2) The amount by which the allocation pursuant to Sections 75.70, 96 or 97, and 98, shall be reduced shall be equal to the allocation multiplied by the factor computed for the district pursuant to paragraph (1).

(3) For the 1984–85 fiscal year and each fiscal year thereafter, the amount computed for each special district pursuant to this subdivision, other than a special district governed by a county board of supervisors or whose governing board is the same as the county board of supervisors, shall not be greater than the amount computed for the 1983–84 fiscal year.

(4) The total of all amounts computed for special districts within each county shall be deposited in the Special District Augmentation Fund which shall specify amounts for each governing body as defined in Section 16271 of the Government Code and which shall be allocated pursuant to subdivision (b).

(b) There is hereby created a Special District Augmentation Fund in each county to augment the revenues of special districts. On or before June 1 of each year, the governing body shall notify each special district of the estimated amount of funds in the Special District Augmentation Fund available to special districts in the coming fiscal year. The auditor shall, on or before August 31 of each year, notify each governing body, as defined in Section 16271 of the Government Code, of the amount allocated to it pursuant to this section.

(c) Within 15 days of the notice, the governing body shall hold a public hearing for the purpose of determining the distribution of the funds. The governing body shall send written notice to the legislative body of each special district which is not governed by the board of supervisors or the city council. The notice shall include all of the following:

(1) The amount of funds disbursed to each special district and the

amount of funds disbursed pursuant to subdivision (j) in the past fiscal year.

(2) The amount of funds computed pursuant to subdivision (a).

(3) The amount of funds proposed to be allocated pursuant to subdivision (j).

(4) The time and place of the hearing.

The governing body shall also publish the notice in a newspaper of general circulation in the county not less than three days prior to the hearing. The published notice shall include the time and place of the hearing.

(d) Within 30 days of the notice of allocation, the governing body shall allocate the funds to special districts, and may allocate funds pursuant to subdivision (j). The governing body shall disburse the entire amount of the fund to special districts during the fiscal year, except for the amounts allocated pursuant to subdivision (j).

(e) In determining the amount of funds to be disbursed to each special district, the governing body shall not consider any revenues raised by a special district pursuant to Article 3.6 (commencing with Section 50078) of Chapter 1 of Part 1 of Division 1, or Article 16 (commencing with Section 53970) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(f) In determining the amount of funds to be allocated to each special district, the governing body may consider the revenues which are raised, or could be raised, by a special district from its enterprise activities.

(g) In determining the amount of funds to be allocated to each special district, the governing body shall not allocate funds to any special district which is governed by the board of supervisors or the city council if the governing body intends that those funds are to be transferred to that county or city upon or after disbursement to the special district, except as reimbursement to the city or county for services rendered to the special district.

(h) Within 30 days after determining the amount of funds to be allocated, the governing body shall send written notice to the legislative body of each special district which is not governed by the board of supervisors or the city council which shall include:

(1) The total amount of funds computed pursuant to subdivision (a).

(2) The amount of funds allocated to each special district.

(3) The amount of funds allocated pursuant to subdivision (j).

(i) In determining the amount of funds to be disbursed to a special district, the governing body may restrict the use of the funds requested by a special district for purposes of capital purchases to those purposes.

(j) The funds allocated pursuant to this section shall be used exclusively for special districts and shall not be used for any general county or municipal expenses, except that:

(1) The governing body may allocate to its general fund an amount not to exceed the actual demonstrated cost of administering

the Special District Augmentation Fund, which shall be an amount necessary to reimburse the actual demonstrated expenditures made to carry out the requirements of subdivisions (a) to (i), inclusive, and also the actual demonstrated cost of providing the assistance requested by special districts, which amount shall not exceed 1 percent of the amount in the fund.

(2) The governing body may allocate to a special account in its general fund an amount not to exceed 1 percent of the amount of the Special District Augmentation Fund to pay only the costs of the following:

(A) Expenses incurred by special districts in the event of an emergency. As used in this subparagraph, "emergency" means a sudden, unexpected occurrence which threatens the public peace, health, safety, or welfare and which is, or is likely to be, beyond the control of the services, personnel, equipment, or facilities of the special district.

(B) To carry out the purposes of the California Special District Consolidation Assistance Program established pursuant to Chapter 9.5 (commencing with Section 60350) of Division 2 of Title 6 of the Government Code.

(C) To establish a Special District Augmentation Fund Loan program. The program funds may be loaned to special districts under those terms and conditions and in those amounts as are specified by the governing body.

(3) Notwithstanding the limits of paragraph (2), the governing body of a county with a population of less than 50,000, as determined by the Department of Finance, may allocate an amount not to exceed 2 percent of the fund. Those governing bodies may accumulate in the special account an amount not to exceed 5 percent of the fund over a period of three fiscal years.

(4) The governing body shall disburse to special districts any amount allocated pursuant to this subdivision which is greater than the limits set by paragraphs (2) and (3) in the succeeding fiscal year.

(k) The county auditor shall disburse funds to the special district in the same manner as disbursements which are made from the county treasurer's property tax trust fund.

(*l*) Disbursements to cities with more than one subsidiary special district may be made to the city. Each city shall distribute these funds to their individual subsidiary special districts in accordance with the city council's final determination.

(m) Any interest which accrues to the Special District Augmentation Fund shall be considered part of the fund and shall not be allocated or distributed in any way to the general fund of the governing body.

SEC. 12.5. Section 98.6 of the Revenue and Taxation Code, as amended by Chapter 113 of the Statutes of 1987, is amended to read:

98.6. (a) Notwithstanding any other provision of this chapter, the amount allocated pursuant to Sections 96 or 97, and 98, to a special district, as defined in Article 1 (commencing with Section

2201) of Chapter 3 of Part 4, excluding multicounty districts, and the amount allocated pursuant to Section 75.70 to a 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 reduced by an amount computed as follows:

(1) A ratio shall be computed for each of the special districts equal to the amount of state assistance payment for the special district for the 1978–79 fiscal year divided by the sum of the state assistance payment for the special district plus the amount of property tax revenue allocated to the special district for the 1978–79 fiscal year pursuant to Section 26912 of the Government Code.

(2) The amount by which the allocation pursuant to Sections 75.70, 96 or 97, and 98, shall be reduced shall be equal to the allocation multiplied by the factor computed for the district pursuant to paragraph (1).

(3) For the 1984–85 fiscal year and each fiscal year thereafter, the amount computed for each special district pursuant to this subdivision, other than a special district governed by a county board of supervisors or whose governing board is the same as the county board of supervisors, shall not be greater than the amount computed for the 1983–84 fiscal year.

(4) The total of all amounts computed for special districts within each county shall be deposited in the Special District Augmentation Fund which shall specify amounts for each governing body as defined in Section 16271 of the Government Code and which shall be allocated pursuant to subdivision (b).

(5) Notwithstanding any other provision of law, for purposes of this section, an existing mosquito abatement district, as provided for in Chapter 5 (commencing with Section 2108) of Division 3 of the Health and Safety Code, located in Monterey County that, on or after January 1, 1988, annexes property in a county adjoining Monterey County and which prior to the date of annexation is not a multicounty district, shall not be deemed a multicounty district.

(b) There is hereby created a Special District Augmentation Fund in each county to augment the revenues of special districts. On or before June 1 of each year, the governing body shall notify each special district of the estimated amount of funds in the Special District Augmentation Fund available to special districts in the coming fiscal year. The auditor shall, on or before August 31 of each year, notify each governing body, as defined in Section 16271 of the Government Code, of the amount allocated to it pursuant to this section.

(c) Within 15 days of the notice, the governing body shall hold a public hearing for the purpose of determining the distribution of the funds. The governing body shall send written notice to the legislative body of each special district which is not governed by the board of supervisors or the city council. The notice shall include all of the following:

(1) The amount of funds disbursed to each special district and the

amount of funds disbursed pursuant to subdivision (j) in the past fiscal year.

(2) The amount of funds computed pursuant to subdivision (a).

(3) The amount of funds proposed to be allocated pursuant to subdivision (j).

(4) The time and place of the hearing.

The governing body shall also publish the notice in a newspaper of general circulation in the county not less than three days prior to the hearing. The published notice shall include the time and place of the hearing.

(d) Within 30 days of the notice of allocation, the governing body shall allocate the funds to special districts, and may allocate funds pursuant to subdivision (j). The governing body shall disburse the entire amount of the fund to special districts during the fiscal year, except for the amounts allocated pursuant to subdivision (j).

(e) In determining the amount of funds to be disbursed to each special district, the governing body shall not consider any revenues raised by a special district pursuant to Article 3.6 (commencing with Section 50078) of Chapter 1 of Part 1 of Division 1, or Article 16 (commencing with Section 53970) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(f) In determining the amount of funds to be allocated to each special district, the governing body may consider the revenues which are raised, or could be raised, by a special district from its enterprise activities.

(g) In determining the amount of funds to be allocated to each special district, the governing body shall not allocate funds to any special district which is governed by the board of supervisors or the city council if the governing body intends that those funds are to be transferred to that county or city upon or after disbursement to the special district, except as reimbursement to the city or county for services rendered to the special district.

(h) Within 30 days after determining the amount of funds to be allocated, the governing body shall send written notice to the legislative body of each special district which is not governed by the board of supervisors or the city council which shall include:

(1) The total amount of funds computed pursuant to subdivision (a).

(2) The amount of funds allocated to each special district.

(3) The amount of funds allocated pursuant to subdivision (j).

(i) In determining the amount of funds to be disbursed to a special district, the governing body may restrict the use of the funds requested by a special district for purposes of capital purchases to those purposes.

(j) The funds allocated pursuant to this section shall be used exclusively for special districts and shall not be used for any general county or municipal expenses, except that:

(1) The governing body may allocate to its general fund an amount not to exceed the actual demonstrated cost of administering

the Special District Augmentation Fund, which shall be an amount necessary to reimburse the actual demonstrated expenditures made to carry out the requirements of subdivisions (a) to (i), inclusive, and also the actual demonstrated cost of providing the assistance requested by special districts, which amount shall not exceed 1 percent of the amount in the fund.

(2) The governing body may allocate to a special account in its general fund an amount not to exceed 1 percent of the amount of the Special District Augmentation Fund to pay only the costs of the following:

(A) Expenses incurred by special districts in the event of an emergency. As used in this subparagraph, "emergency" means a sudden, unexpected occurrence which threatens the public peace, health, safety, or welfare and which is, or is likely to be, beyond the control of the services, personnel, equipment, or facilities of the special district.

(B) To carry out the purposes of the California Special District Consolidation Assistance Program established pursuant to Chapter 9.5 (commencing with Section 60350) of Division 2 of Title 6 of the Government Code.

(C) To establish a Special District Augmentation Fund Loan program. The program funds may be loaned to special districts under those terms and conditions and in those amounts as are specified by the governing body.

(3) Notwithstanding the limits of paragraph (2), the governing body of a county with a population of less than 50,000, as determined by the Department of Finance, may allocate an amount not to exceed 2 percent of the fund. Those governing bodies may accumulate in the special account an amount not to exceed 5 percent of the fund over a period of three fiscal years.

(4) The governing body shall disburse to special districts any amount allocated pursuant to this subdivision which is greater than the limits set by paragraphs (2) and (3) in the succeeding fiscal year.

(k) The county auditor shall disburse funds to the special district in the same manner as disbursements which are made from the county treasurer's property tax trust fund.

(*l*) Disbursements to cities with more than one subsidiary special district may be made to the city. Each city shall distribute these funds to their individual subsidiary special districts in accordance with the city council's final determination.

(m) Any interest which accrues to the Special District Augmentation Fund shall be considered part of the fund and shall not be allocated or distributed in any way to the general fund of the governing body.

SEC. 13. Section 2189 of the Revenue and Taxation Code is amended to read:

2189. A tax on personal property is a lien on any real property on the secured roll also belonging to the owner of the personal property, if the personal property is located upon such real property on the lien

date, and if the fact of the lien is shown on the secured roll opposite the description of the real property.

Any failure or omission to show the fact of such lien for personal property taxes on the secured roll opposite such description of real property shall not operate to invalidate any such personal property tax, but in such case the tax shall be collected in the same manner as taxes on the unsecured roll; provided, that if the fact of lien is erroneously entered on the secured roll opposite the description of real property belonging to someone other than the owner of the personal property on the lien date, then the delinquency penalty provided for in Chapter 4 of Part 5 shall not attach until December 10th at 5 p.m. or, if December 10th falls on Saturday, Sunday, or a holiday at 5 p.m. on the next business day.

SEC. 14. Section 2922 of the Revenue and Taxation Code is repealed.

SEC. 15. Section 2922 is added to the Revenue and Taxation Code, to read:

2922. (a) Taxes on the unsecured roll as of July 31, if unpaid, are delinquent August 31 at 5 p.m. and thereafter subject to a delinquent penalty of 10 percent.

(b) Taxes added to the unsecured roll after July 31, if unpaid are delinquent and subject to a penalty of 10 percent at 5 p.m. on the last day of the month succeeding the month of enrollment.

(c) Taxes transferred to the unsecured roll pursuant to any provision of law and already subject to penalties also transferred, shall be subject only to the additional penalties prescribed in subdivision (d), which shall attach beginning July 1 and on the first day of each month thereafter.

(d) Unsecured taxes remaining unpaid at 5 p.m. on the last day of the second month after the 10 percent penalty attaches shall be subject to an additional penalty of 1 1/2 percent attaching on the first day of each succeeding month on the amount of the original tax. The additional penalties shall continue to attach until the time of payment or until the time a court judgment is entered for the amount of unpaid taxes and penalties, whichever occurs first.

(e) When the last day of a month falls on Saturday, Sunday, or a legal holiday, any penalty to which the tax becomes subject on that date shall not attach if the tax collector receives payment in full by 5 p.m. of the next business day.

SEC. 16. Section 3708 of the Revenue and Taxation Code is amended to read:

3708. On receiving the full purchase price at any sale under this chapter, the tax collector shall, without charge, execute a deed to the purchaser and send a conformed copy of the deed containing the recorder's indexing data to the Controller.

SEC. 17. Section 3716 of the Revenue and Taxation Code is amended to read:

3716. Within 10 days after the sale, the tax collector shall report to the assessor the following:

(a) The name of the purchaser.
(b) The date of sale.
(c) The amount for which the property was sold.
(d) The description of the property conveyed.

SEC. 18. Section 4105.2 of the Revenue and Taxation Code is amended to read:

4105.2. When tax-defaulted property is redeemed and upon the request of the redemptioner, the tax collector shall issue a certificate of redemption. With the approval of the Controller as to form, each certificate of redemption shall show:

(a) The year of default.
(b) A description of the property.
(c) The amounts to be paid.
(d) The name of the person making the payment.
(e) The date of redemption.

Notwithstanding any other provisions of this code, where no physical document of the extended redemption certificate is prepared, all entries required to be made on the extended certificate shall be so stored that it can be made readily available to the public in an understandable form.

SEC. 19. Section 4105.3 of the Revenue and Taxation Code is repealed.

SEC. 20. Section 4222 of the Revenue and Taxation Code is amended to read:

4222. If all payments are not made on or before the dates prescribed, the property may become subject to a power of sale pursuant to Section 3691 or the right of redemption may be terminated in the same manner as if no election to pay delinquent taxes in installments had been made. In the event that the default occurs at the time the second or subsequent installment is due and the assessee or agent of the assessee can, by substantial evidence, convince the tax collector that the payment was not made through any fault of the assessee the tax collector may reinstate the account upon receipt of a payment in an amount reflecting the installment due plus interest under Section 4221 to the date of reinstatement, provided the payment is physically received by the tax collector prior to the time the property becomes subject to the tax collector's power to sell or prior to June 30 of the current fiscal year, whichever occurs earlier.

SEC. 21. Section 4336 of the Revenue and Taxation Code is amended to read:

4336. When property is redeemed on which delinquent taxes have been paid in installments, there shall be credited on the amount necessary to redeem the total amount of back taxes previously paid, including an allowance for interest paid pursuant to Section 4221. The credit shall be allowed after computation of the amount necessary to redeem. If the last payment made of delinquent taxes in installments was under a provision of law which requires that payments be made on or before the delinquency deadline of the last

installment of secured taxes in each fiscal year, no credit shall be allowed under this section after five years succeeding June 30th of the first fiscal year when no payment was made as required.

SEC. 22. Section 4337 of the Revenue and Taxation Code is amended to read:

4337. When payment of delinquent taxes in installments on any property was started under any provision of law and payment of delinquent taxes in installments on the property is later started after default in payment, there shall be credited on the amount payable the total amount of back taxes paid during the course of the defaulted plan or plans, including an allowance for interest paid pursuant to Section 4221. This credit is in addition to and not a substitute for the payment of any part of any installment payable and shall be allowed after the first installment is paid. No credit shall be allowed under this section after five years succeeding June 30th of the first fiscal year when no payment was made as required.

SEC. 23. Section 5097 of the Revenue and Taxation Code is amended to read:

5097. (a) No order for a refund under this article shall be made, except on a claim:

(1) Verified by the person who paid the tax, his or her guardian, executor, or administrator.

(2) Filed within four years after making of the payment sought to be refunded or within one year after the mailing of notice as prescribed in Section 2635, or the period agreed to as provided in Section 532.1, whichever is later.

(b) An application for a reduction in an assessment filed pursuant to Section 1603 shall also constitute a sufficient claim for refund under this section if the applicant states in the application that the application is intended to constitute a claim for refund. If the applicant does not so state, he or she may thereafter and within the period provided in paragraph (2) of subdivision (a) file a separate claim for refund of taxes extended on the assessment which applicant applied to have reduced pursuant to Section 1603 or Section 1604.

(c) If an application for equalization of an escape assessment is filed pursuant to Section 1603, a claim may be filed on any taxes resulting from the escape assessment or the original assessment to which the escape relates within the period provided in paragraph (2) of subdivision (a) or within 60 days from the date the board of equalization makes its final determination on the application, whichever is later.

SEC. 24. Section 5097.2 of the Revenue and Taxation Code is amended to read:

5097.2. Notwithstanding Sections 5096 and 5097, any taxes paid before or after delinquency may be refunded by the county auditor, within four years after the date of payment, if:

(a) Paid more than once.

(b) The amount paid exceeds the amount due on the property as shown on the roll.

(c) The amount paid exceeds the amount due on the property as the result of corrections to the roll or cancellations ordered by the board of supervisors after such taxes were paid.

(d) In any other case, where the claim for refund is made under penalty of perjury and is for an amount less than ten dollars ($10), with the written consent of the district attorney.

(e) The amount paid exceeds the amount due on the property as the result of a reduction attributable to a hearing before an assessment appeals board or an assessment hearing officer.

SEC. 25. Section 22507 of the Streets and Highways Code is amended to read:

22507. Division 4 (commencing with Section 2800) and Division 4.5 (commencing with Section 3100) do not apply to this part or proceedings taken pursuant to this part, except that Division 4.5 (commencing with Section 3100) does apply to proceedings in which the legislative body determines to issue bonds or notes pursuant to Section 22662.5, and may be applied to any other proceedings pursuant to this part at the discretion of the legislative body.

SEC. 26. Section 22526 of the Streets and Highways Code is amended to read:

22526. "Incidental expenses" include all of the following:

(a) The costs of preparation of the report, including plans, specifications, estimates, diagram, and assessment.

(b) The costs of printing, advertising, and the giving of published, posted, and mailed notices.

(c) Compensation payable to the county for collection of assessments.

(d) Compensation of any engineer or attorney employed to render services in proceedings pursuant to this part.

(e) Any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements.

(f) Any expenses incidental to the issuance of bonds or notes pursuant to Section 22662.5.

SEC. 27. Section 22567 of the Streets and Highways Code is amended to read:

22567. A report shall refer to the assessment district by its distinctive designation, specify the fiscal year to which the report applies, and, with respect to that year, shall contain all of the following:

(a) Plans and specifications for the improvements.

(b) An estimate of the costs of the improvements.

(c) A diagram for the assessment district.

(d) An assessment of the estimated costs of the improvements.

(e) If bonds or notes will be issued pursuant to Section 22662.5, an estimate of their principal amount.

SEC. 28. Section 22572 of the Streets and Highways Code is amended to read:

22572. The assessment shall refer to the fiscal year to which it applies and shall do all of the following:

(a) State the net amount, determined in accordance with Section 22569, to be assessed upon assessable lands within the assessment district, which shall include an amount sufficient to pay the principal and interest due during the fiscal year from each parcel on any bonds or notes issued pursuant to Section 22662.5.

(b) Describe each assessable lot or parcel of land within the district.

(c) Assess the net amount upon all assessable lots or parcels of land within the district by apportioning that amount among the several lots or parcels in proportion to the estimated benefits to be received by each lot or parcel from the improvements.

The assessment may refer to the county assessment roll for a description of the lots or parcels, in which case that roll shall govern for all details concerning the description of the lots or parcels.

SEC. 29. Section 22587 of the Streets and Highways Code is amended to read:

22587. After approval of the report, either as filed or as modified, the legislative body shall adopt a resolution of intention. The resolution shall do all of the following:

(a) Declare the intention of the legislative body to order the formation of an assessment district, to levy and collect assessments, and, if desired, to issue bonds or notes pursuant to this part.

(b) Generally describe the improvements.

(c) Refer to the proposed assessment district by its distinctive designation and indicate the general location of the district.

(d) Refer to the report of the engineer, on file with the clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, any bonds or notes to be issued, and the proposed assessments upon assessable lots and parcels of land within the district.

(e) Give notice of, and fix a time and place for, a hearing by the legislative body on the question of the formation of the assessment district and the levy of the proposed assessment.

SEC. 30. Section 22594 of the Streets and Highways Code is amended to read:

22594. (a) If a majority protest has not been filed, or, if filed, has been overruled, the legislative body may adopt a resolution ordering the improvements and the formation of the assessment district and confirming the diagram and assessment, either as originally proposed by the legislative body or as changed by it. Except as provided in subdivision (b), the adoption of the resolution shall constitute the levy of an assessment for the fiscal year referred to in the assessment.

(b) If bonds or notes are to be issued pursuant to Section 22662.5, the adoption of the resolution shall constitute the levy of an assessment for a principal amount which may be collected in annual installments. The clerk shall record a notice and map describing the assessment pursuant to Division 4.5 (commencing with Section 3100).

SEC. 31. Section 22605 of the Streets and Highways Code is

amended to read:

22605. The legislative body, either in a single proceeding or by separate proceedings, may order one or any combination of the following changes of organization:

(a) The annexation of territory to an existing assessment district formed under this part.

(b) The detachment of territory from an existing assessment district formed under this part.

(c) The dissolution of an existing assessment district formed under this part.

(d) The consolidation into a single assessment district formed under this part of any combination of two or more of any of the following:

(1) An existing assessment district formed pursuant to this part.

(2) An existing lighting, street lighting, maintenance, or tree planting district formed pursuant to Chapter 26 (commencing with Section 5820) of Part 3 of Division 7, Part 1 (commencing with Section 18000), Part 2 (commencing with Section 18300), Part 3 (commencing with Section 18600), or Part 4 (commencing with Section 19000) of Division 14, or Part 1 (commencing with Section 22000) of this division, or pursuant to any procedural ordinance adopted by a charter city.

(e) The legislative body shall not, by annexation, detachment, dissolution, or consolidation, alter the obligation of property owners to pay the principal of, and interest on, bonded debt or notes issued pursuant to Section 22662.5. This section does not prevent the lawful refunding of the bonded debt or notes or the apportionment of assessments upon the division of properties assessed.

SEC. 32. Section 22620 of the Streets and Highways Code is amended to read:

22620. This chapter applies to all annual assessments levied after the formation of an assessment district, except annual assessments to pay the principal of, and interest on, previously issued bond debt or notes.

SEC. 33. Section 22646 of the Streets and Highways Code is amended to read:

22646. The assessments shall be collected at the same time and in the same manner as county taxes are collected, and all laws providing for the collection and enforcement of county taxes shall apply to the collection and enforcement of the assessments, except that assessments levied pursuant to Section 22660 for which bonds or notes are to be issued may be paid within 30 days after the date the county auditor has entered the assessments on the county assessment roll, upon which time the engineer shall make and file with the treasurer a complete list of all unpaid assessments in the manner required by Section 8620. As a cumulative remedy, assessments and related charges and penalties, to pay principal or interest on bonds or notes, which are not paid when due, may be collected by an action brought in superior court, pursuant to Part 14 (commencing with

Section 8830) of Division 10.

SEC. 34. Section 22662.5 of the Streets and Highways Code is amended to read:

22662.5. (a) The legislative body of any local agency may, by resolution, determine and declare that bonds shall be issued to finance the estimated cost of the proposed improvements described in subdivision (e) of Section 22525, other than the costs of maintenance and servicing, under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500)). Division 10 (commencing with Section 8500) shall govern all proceedings relating to the issuance of those bonds. The pertinent provisions of that division which apply to the legislative body of a city shall also apply to the legislative body of a special district formed to provide park and recreational services. Alternatively, the legislative body may determine and declare that notes shall be issued for the same purposes for which bonds may be issued. The maximum term to maturity of any notes issued shall not exceed 10 years.

(b) The resolution shall generally describe the proposed improvements specified in subdivision (e) of Section 22525, set forth the estimated cost thereof, specify the number of annual installments and the fiscal years during which they are to be collected, and fix or determine the maximum amount of each annual installment necessary to retire the bonds or notes. The amount of debt service to retire the bonds shall not exceed the amount of revenue estimated to be raised from assessments over 30 years. The amount of debt service to retire the notes shall not exceed the amount of revenue to be raised from the assessments over 10 years.

(c) Notwithstanding any other provision of this part, assessments levied to pay the principal of, and interest on, any bond or note issued pursuant to this section, shall not be reduced or terminated if doing so would interfere with the timely retirement of the debt.

SEC. 35. Section 21967 of the Vehicle Code is amended to read:

21967. Except as provided in Section 21968, a local authority may adopt rules and regulations by ordinance or resolution prohibiting or restricting persons from riding or propelling skateboards on highways, sidewalks, or roadways.

SEC. 36. Sections 12 to to 24, inclusive, of this act shall become operative on July 1, 1988.

SEC. 37. Section 12.5 of this bill incorporates amendments to Section 98.6 of the Revenue and Taxation Code proposed by both this bill and AB 1018. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1988, (2) each bill amends Section 98.6 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 1018, in which case Section 98.6 of the Revenue and Taxation Code, as amended by AB 1018, shall remain operative only until July 1, 1988, at which time Section 12.5 of this bill shall become operative, and Section 12 of this bill shall not become operative.

SEC. 38. 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.

Moreover, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for other costs mandated by the state pursuant to this act 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 1185

An act to amend Sections 19845 and 20022 of the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 26, 1987]

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

SECTION 1. Section 19845 of the Government Code is amended to read:

19845. (a) Notwithstanding any other provision of this chapter, the department is authorized to provide for overtime payments as prescribed by the Federal Fair Labor Standards Act to state employees.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the provisions of this section shall be controlling unless the memorandum of understanding provides a greater benefit, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 2. Section 20022 of the Government Code is amended to read:

20022. (a) "Compensation" includes: (1) the remuneration paid in cash out of funds controlled by the employer, plus the monetary value, as determined by the board, of living quarters, board, lodging, fuel, laundry and other advantages of any nature furnished a member by his or her employer in payment for his or her services or for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence; (2) any payments in cash by his or her employer to one other than an employee for the purpose of purchasing an annuity

contract for a member under an annuity plan which meets the requirements of Section 403(b) of the Internal Revenue Code of the United States; (3) any amount deducted from a member's wages for participation in a deferred compensation plan established pursuant to Chapter 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 retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of the United States; (5) any amount deducted from the member's salary for payment into a money purchase pension plan and trust which meets the requirements of Section 401(a) of the Internal Revenue Code of the United States; (6) employer "pick up" of member contributions which meets the requirements of Section 414(h)(2) of the Internal Revenue Code of the United States; (7) any disability or workers' compensation payments to safety members in accordance with Sections 4800 and 4850 of the Labor Code; (8) 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; (9) compensation for uniforms, except as provided in Section 20022.1; (10) 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) advanced disability pension payments provided pursuant to Section 4850.3 of the Labor Code; (13) amounts not available for payment of salaries and which are applied by the employer for the purchase of a retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of the United States; (14) amounts not available for payment of salaries which are applied by the employer for payment into a money purchase pension plan and trust which meets the requirements of Section 401(a) of the Internal Revenue Code of the United States; and (15) any other payments the board may determine not to be compensation.

(c) If the provisions of this section are in conflict with the provisions of the memoranda of understanding reached pursuant to Section 3517.5 for state bargaining units 1, 2, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 18, 19, and 20, the memoranda 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) Subdivision (c) is not applicable to base salary payments or payments for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence.

SEC. 3. The provisions of the following memorandum of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and the specified employee organization on the date listed below, which require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code:

Unit 7 - California Union of Safety Employees, dated September 11, 1987.

SEC. 4. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

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

In order for the provisions of this act to be applicable for the entire 1987–88 fiscal year, it is necessary for this act to take effect immediately.

CHAPTER 1186

An act to add Section 9191.5 of the Government Code, relating to oaths.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987.]

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

SECTION 1. Section 9191.5 is added to the Government Code, to read:

9191.5. The Secretary of the Senate and Chief Clerk of the Assembly may administer and certify oaths.

CHAPTER 1187

An act to amend Section 43041 of, and to add Section 43040.5 to, and Chapter 16 (commencing with Section 43060) to Part 24 of, the Education Code, relating to school districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 26, 1987]

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

SECTION 1. Section 43040.5 is added to the Education Code, to read:

43040.5. Notwithstanding Section 43040, this chapter shall apply to any one or more of the following school districts that, no later than 90 days after this section becomes operative as to that school district or school districts, adopts a schedule that specifies the use of the proceeds of the measure approved by the voters of the district, as described in Section 43041: the William S. Hart Union High School District, the Castaic Union School District, the Newhall School District, the Saugus Union School District, and the Sulphur Springs Elementary School District.

SEC. 2. Section 43041 of the Education Code is amended to read:

43041. (a) The provisions of this chapter shall govern the collection of special taxes which satisfy all the following requirements:

(1) The special tax has been approved, pursuant to Section 4 of Article XIII A of the California Constitution, by two-thirds of the voters of the school district voting upon the proposition to authorize the governing board of the school district to levy the special tax.

(2) The special tax is levied against applicants for final building permits which authorize new construction within the school district.

(3) The proceeds of the special taxes are used for new school facilities.

(b) The sole purpose of this chapter is to govern the collection of legally imposed taxes. This chapter shall not be construed to grant, deny, extinguish, or recognize the authority to impose any tax, or to determine otherwise, expressly or impliedly, the legality of the imposition of any tax or to determine the character of any levy as a special tax or fee.

SEC. 3. Chapter 16 (commencing with Section 43060) is added to Part 24 of the Education Code, to read:

CHAPTER 16. COURT ACTIONS ON SPECIAL ELECTION

43060. (a) In the action of California Building Industry Association v. Governing Board of the Newhall School District, et al., (Los Angeles County Superior Court (c658159)) brought to determine the validity of the special election of June 2, 1987, held in the William S. Hart Union High School District, the Castaic Union School District, the Newhall School District, the Saugus Union School District, or the Sulphur Springs Elementary School District, including the hearing of the action on appeal from the decision of a lower court, all courts where the action is or may hereafter be pending shall give the action preference over all other civil actions, with respect to setting the action for hearing or trial and hearing the action, to the end that the action shall be quickly heard and determined.

(b) If the action described in subdivision (a) is appealed, at the completion of the filing of briefs, the appellant shall notify the reviewing court that the briefs have been filed. Upon receipt of notice that the briefs have been filed, the clerk of the reviewing court shall set the appeal for hearing on the first available date on the court calendar.

(c) Section 43040.5, as added by Section 1 of the act adding this section, shall become operative only if the school districts named in Section 43040.5 prevail in the litigation described in subdivision (a).

(d) No city or county shall condition the issuance of a building permit on the payment of any tax required by special election as described in subdivision (a) unless Section 43040.5 becomes operative, as provided in subdivision (c), or unless a court of competent jurisdiction so orders.

(e) No school district enumerated in Section 43040.5 shall condition the collection of, or certification of compliance with, any developer fee or other requirement levied by the governing board of that school district under Section 53080 of the Government Code on the payment of any tax required by special election as described in subdivision (a) unless Section 43040.5 becomes operative, as provided in subdivisions (c), or unless a court of competent jurisdiction so orders, so long as the applicant for the building permit agrees in writing to pay the special tax, together with interest from

the date of issuance of the building permit at a reasonable rate as determined by the court, in the event that the school district prevails in the litigation described in subdivision (a).

SEC. 4. Due to the unique circumstances concerning the rapid growth of the William S. Hart Union High School District, the Castaic Union School District, the Newhall School District, the Saugus Union School District, and the Sulphur Springs Elementary School District and their need for additional schools, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 5. No reimbursement is required by Section 1 of 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 California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the validity of certain school district special tax elections can be resolved as soon as possible to remove the uncertainty of the school districts and those affected by those elections, and to permit the establishment of a collection procedure for the special tax if the elections are validated, it is necessary that this act take effect immediately.

CHAPTER 1188

An act to amend Section 87302 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987.]

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

SECTION 1. Section 87302 of the Government Code is amended to read:

87302. Each Conflict of Interest Code shall contain the following provisions:

(a) Specific enumeration of the positions within the agency, other than those specified in Section 87200, which involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest and for each such enumerated position, the specific types of investments, business positions, interests in real property, and sources of income which are reportable. An investment, business position, interest in real property, or source of income shall be made reportable by the

Conflict of Interest Code if the business entity in which the investment or business position is held, the interest in real property, or the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of his or her position.

(b) Requirements that each designated employee, other than those specified in Section 87200, file statements at times and under circumstances described herein, disclosing reportable investments, business positions, interests in real property and income. The information disclosed with respect to reportable investments, interests in real property, and income shall be the same as the information required by Sections 87206 and 87207. The first statement filed under a Conflict of Interest Code by a designated employee shall disclose any reportable investments and interests in real property. An initial statement shall be filed by each designated employee within 30 days after the effective date of the Conflict of Interest Code, disclosing interests held on the effective date of the Conflict of Interest Code. Thereafter, each new designated employee shall file a statement within 30 days after assuming office, or if subject to State Senate confirmation, 30 days after being appointed or nominated, disclosing interests held on the date of assuming office or the date of being appointed or nominated, respectively. Each designated employee shall file an annual statement, at the time specified in the Conflict of Interest Code, disclosing reportable investments, business positions, interest in real property and income held or received at any time during the previous calendar year or since the date the designated employee took office if during the calendar year. Every designated employee who leaves office shall file, within 30 days of leaving office, a statement disclosing reportable investments, business positions, interests in real property, and income held or received at any time during the period between the closing date of the last statement required to be filed and the date of leaving office.

(c) Specific provisions setting forth any circumstances under which designated employees or categories of designated employees must disqualify themselves from making, participating in the making, or using their official position to influence the making of any decision. Disqualification shall be required by the Conflict of Interest Code when the designated employee has a financial interest as defined in Section 87103, which it is reasonably foreseeable may be affected materially by the decision. No designated employee shall be required to disqualify himself or herself with respect to any matter which could not legally be acted upon or decided without his or her participation.

(d) For any position enumerated pursuant to subdivision (a), an individual who resigns the position within 30 days following initial appointment is not deemed to assume or leave office, provided that during the period between appointment and resignation, the individual does not make, participate in making, or use the position

to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

SEC. 2. The Legislature finds and declares that the provisions of this act further the purposes of the Poliical Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 1189

An act to amend Sections 13370, 13372, and 13373 of, to repeal and add Sections 13376, 13383, 13385, 13386, and 13387 of, and to repeal Section 13371 of, the Water Code, relating to water quality.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 26, 1987]

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

SECTION 1. Section 13370 of the Water Code is amended to read:

13370. The Legislature finds and declares as follows:

(a) The Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.), as amended, provides for permit systems to regulate the discharge of pollutants and dredged or fill material to the navigable waters of the United States and to regulate the use and disposal of sewage sludge.

(b) The Federal Water Pollution Control Act, as amended, provides that permits may be issued by states which are authorized to implement the provisions of that act.

(c) It is in the interest of the people of the state, in order to avoid direct regulation by the federal government of persons already subject to regulation under state law pursuant to this division, to enact this chapter in order to authorize the state to implement the provisions of the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto, and federal regulations and guidelines issued pursuant thereto, provided, that the state board shall request federal funding under the Federal Water Pollution Control Act for the purpose of carrying out its responsibilities under this program.

SEC. 2. Section 13371 of the Water Code is repealed.

SEC. 3. Section 13372 of the Water Code is amended to read:

13372. This chapter shall be construed to assure consistency with the requirements for state programs implementing the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto. To the extent other provisions of this division are consistent with the provisions of this chapter and with the requirements for state programs implementing the Federal

Water Pollution Control Act and acts amendatory thereof or supplementary thereto, those provisions shall be applicable to actions and procedures provided for in this chapter. The provisions of this chapter shall prevail over other provisions of this division to the extent of any inconsistency. The provisions of this chapter shall apply only to actions required under the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto. The provisions of this chapter relating to the discharge of dredged and fill material shall be applicable only to discharges for which the state has an approved permit program, in accordance with the provisions of the Federal Water Pollution Control Act, as amended, for the discharge of dredged and fill material.

SEC. 4. Section 13373 of the Water Code is amended to read:

13373. The terms "navigable waters," "administrator," "pollutants," "biological monitoring," "discharge" and "point sources" as used in this chapter shall have the same meaning as in the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto.

SEC. 5. Section 13376 of the Water Code is repealed.

SEC. 6. Section 13376 is added to the Water Code, to read:

13376. Any person discharging pollutants or proposing to discharge pollutants to the navigable waters of the United States within the jurisdiction of this state or any person discharging dredged or fill material or proposing to discharge dredged or fill material into the navigable waters of the United States within the jurisdiction of this state shall file a report of the discharge in compliance with the procedures set forth in Section 13260, except that no report need be filed under this section for discharges that are not subject to the permit application requirements of the Federal Water Pollution Control Act, as amended. Any person proposing to discharge pollutants or dredged or fill material or proposing to operate a publicly owned treatment works or other treatment works treating domestic sewage shall file a report at least 180 days in advance of the date on which it is desired to commence the discharge of pollutants or dredged or fill material or the operation of the treatment works. Any person who owns or operates a publicly owned treatment works or other treatment works treating domestic sewage, which treatment works commenced operation before January 1, 1988, and does not discharge to navigable waters of the United States, shall file a report within 45 days of a written request by a regional board or the state board, or within 45 days after the state has an approved permit program for the use and disposal of sewage sludge, whichever occurs earlier. The discharge of pollutants or dredged or fill material or the operation of a publicly owned treatment works or other treatment works treating domestic sewage by any person except as authorized by waste discharge requirements or dredged or fill material permits is prohibited, except that no waste discharge requirements or permit is required under this chapter if no state or federal permit is required under the Federal Water Pollution

Control Act, as amended.

SEC. 7. Section 13383 of the Water Code is repealed.

SEC. 8. Section 13383 is added to the Water Code, to read:

13383. (a) The state board or a regional board may establish monitoring, inspection, entry, reporting, and recordkeeping requirements, as authorized by Section 13377 or by subdivisions (b) and (c) of this section, for any person who discharges pollutants or dredged or fill material to navigable waters, any person who introduces pollutants into a publicly owned treatment works, any person who owns or operates a publicly owned treatment works or other treatment works treating domestic sewage, or any person who uses or disposes of sewage sludge.

(b) The state board or the regional boards may require any person subject to this section to establish and maintain monitoring equipment or methods, including, where appropriate, biological monitoring methods, sample effluent as prescribed, and provide other information as may be reasonably required.

(c) The state board or a regional board may inspect the facilities of any person subject to this section pursuant to the procedure set forth in subdivision (c) of Section 13267.

SEC. 9. Section 13385 of the Water Code is repealed.

SEC. 10. Section 13385 is added to the Water Code, to read:

13385. (a) Any person who violates any of the following shall be liable civilly in accordance with subdivisions (b), (c), (d), (e), and (f):

(1) Section 13375 or 13376.

(2) Any waste discharge requirements or dredged and fill material permit.

(3) Any requirements established pursuant to Section 13383.

(4) Any order or prohibition issued pursuant to Section 13243 or Article 1 (commencing with Section 13300) of Chapter 5, if the activity subject to the order or prohibition is subject to regulation under this chapter.

(5) Any requirements of Section 301, 302, 306, 307, 308, 318, or 405 of the Federal Water Pollution Control Act, as amended.

(6) Any requirement imposed in a pretreatment program approved pursuant to waste discharge requirements issued under Section 13377 or approved pursuant to a permit issued by the administrator.

(b) Civil liability may be imposed by the superior court in an amount not to exceed the sum of both of the following:

(1) Twenty-five thousand dollars ($25,000) for each day in which the violation occurs.

(2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed twenty-five dollars ($25) times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

The Attorney General, upon request of a regional board or the state board, shall petition the superior court to impose the liability.

(c) Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both of the following:

(1) Ten thousand dollars ($10,000) for each day in which the violation occurs.

(2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars ($10) times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

(d) For purposes of subdivisions (b) and (c), the term "discharge" includes any discharge to navigable waters of the United States, any introduction of pollutants into a publicly owned treatment works, or any use or disposal of sewage sludge.

(e) In determining the amount of any liability imposed under this section, the regional board, the state board, or the superior court, as the case may be, shall take into account the nature, circumstances, extent, and gravity of the violation, and, with respect to the violator, the ability to pay, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require.

(f) For purposes of this section, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

(g) Remedies under this section are in addition to, and do not supersede or limit, any other remedies, civil or criminal except that no liability shall be recoverable under Section 13261, 13265, 13268, or 13350 for violations for which liability is recovered under this section.

(h) The Attorney General, upon request of a regional board or the state board, shall petition the appropriate court to collect any liability imposed pursuant to this section. Any person who fails to pay on a timely basis any liability imposed under this section shall be required to pay, in addition to that liability plus interest, attorneys' fees and costs for collection procedings and a quarterly nonpayment penalty for each quarter during which the failure to pay persists. The nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of the person's liability and nonpayment penalties which are unpaid as of the beginning of the quarter.

(i) Funds collected pursuant to this section shall be paid to the State Water Pollution Cleanup and Abatement Account.

SEC. 11. Section 13386 of the Water Code is repealed.

SEC. 12. Section 13386 is added to the Water Code, to read:

13386. Upon any threatened or continuing violation of any of the requirements listed in paragraphs (1) to (6), inclusive, of subdivision (a) of Section 13385, or upon the failure of any discharger into a

public treatment system to comply with any cost or charge adopted by any public agency under Section 204(b) of the Federal Water Pollution Control Act, as amended, the Attorney General, upon the request of the state board or regional board shall petition the appropriate court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining that person or persons from committing or continuing the violation. Subdivisions (b) and (c) of Section 13331 shall be applicable to proceedings under this subdivision.

SEC. 13. Section 13387 of the Water Code is repealed.

SEC. 14. Section 13387 is added to the Water Code, to read:

13387. (a) Any person who intentionally or negligently does any of the following is subject to criminal penalties as provided in subdivisions (b), (c), and (d):

(1) Violates Section 13375 or 13376.

(2) Violates any waste discharge requirements or dredged or fill material permit.

(3) Violates any order or prohibition issued pursuant to Section 13243 or 13301, if the activity subject to the order or prohibition is subject to regulation under this chapter.

(4) Violates any requirement of Section 301, 302, 306, 307, 308, 318, or 405 of the Federal Water Pollution Control Act, as amended.

(5) Introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substances which the person knew or reasonably should have known could cause personal injury or property damage.

(6) Introduces any pollutant or hazardous substance into a sewer system or into a publicly owned treatment works, except in accordance with any applicable pretreatment requirements, which pollutant or hazardous substance causes the treatment works to violate waste discharge requirements.

(b) Any person who negligently commits any of the violations set forth in subdivision (a) shall, upon conviction, be punished by a fine of not less than five thousand dollars ($5,000), nor more than twenty-five thousand dollars ($25,000), for each day in which the violation occurs, or by imprisonment for not more than one year in the county jail, or both. If a conviction of a person is for a violation committed after a first conviction of the person under this subdivision, subdivision (c), or subdivision (d), punishment shall be by a fine of not more than fifty thousand dollars ($50,000) for each day in which the violation occurs, or by imprisonment of not more than two years, or by both.

(c) Any person who knowingly commits any of the violations set forth in subdivision (a) shall, upon conviction, be punished by a fine of not less than five thousand dollars ($5,000), nor more than fifty thousand dollars ($50,000), for each day in which the violation occurs, or by imprisonment for not more than three years, or by both. If a conviction of a person is for a violation committed after a first conviction of the person under this subdivision or subdivision (d),

punishment shall be by a fine of not more than one hundred thousand dollars ($100,000) for each day in which the violation occurs, or by imprisonment of not more than six years, or by both.

(d) (1) Any person who knowingly commits any of the violations set forth in subdivision (a), and who knows at the time that the person thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than two hundred fifty thousand dollars ($250,000) or imprisonment of not more than 15 years, or both. A person which is an organization shall, upon conviction under this subdivision, be subject to a fine of not more than one million dollars ($1,000,000). If a conviction of a person is for a violation committed after a first conviction of the person under this subdivision, the maximum punishment shall be a fine of not more than five hundred thousand dollars ($500,000) or imprisonment of not more than 30 years, or both. A person which is an organization shall, upon conviction for a violation committed after a first conviction of the person under this subdivision, be subject to a fine of not more than two million dollars ($2,000,000). Any fines imposed pursuant to this subdivision shall be in addition to any fines imposed pursuant to subdivision (c).

(2) In determining whether a defendant who is an individual knew that the defendant's conduct placed another person in imminent danger of death or serious bodily injury, the defendant is responsible only for actual awareness or actual belief that the defendant possessed, and knowledge possessed by a person other than the defendant, but not by the defendant personally, cannot be attributed to the defendant.

(e) Any person who knowingly makes any false statement, representation, or certification in any record, report, plan, or other document filed with a regional board or the state board, or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required under this division shall be punished by a fine of not more than twenty-five thousand dollars ($25,000), or by imprisonment for not more than two years, or by both. If a conviction of a person is for a violation committed after a first conviction of the person under this subdivision, punishment shall be by a fine of not more than twenty-five thousand dollars ($25,000) per day of violation, or by imprisonment of not more than four years, or by both.

(f) For purposes of this section, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

(g) For purposes of this section, "organization," "serious bodily injury," "person," and " hazardous substance" shall have the same meaning as in Section 309(c) of the Federal Water Pollution Control Act, as amended.

(h) Funds collected pursuant to this section shall be paid to the State Water Pollution Cleanup and Abatement Account.

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 1190

An act to amend Sections 4925, 4927, 4935, 4937, and 4938 of the Business and Professions Code, relating to acupuncture.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987]

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

SECTION 1. Section 4925 of the Business and Professions Code is amended to read:

4925. (a) This chapter constitutes the chapter on acupuncture of the Business and Professions Code.

This chapter shall be known and may be cited as the Acupuncture Licensure Act. Whenever a reference is made to the Acupuncture Licensure Act by the provisions of any statute, it is to be construed as referring to the provisions of this chapter.

(b) Any reference in this chapter, or to the regulations pertaining thereto, to "certificate" or "certification" shall hereafter mean "license" or "licensure." Any reference to the term "certifying" means "licensing," and the term "certificateholder" means "licensee."

SEC. 2. Section 4927 of the Business and Professions Code is amended to read:

4927. As used in this chapter, unless the context otherwise requires:

(a) "Committee" means the Acupuncture Examining Committee.

(b) "Board" means the Division of Allied Health Professions of the Board of Medical Quality Assurance.

(c) "Person" means any individual, organization, or corporate body, except that only individuals may be licensed under this chapter.

(d) "Acupuncturist" means an individual to whom a license has been issued to practice acupuncture pursuant to this chapter, which is in effect and is not suspended or revoked.

(e) "Acupuncture" means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body and includes the

techniques of electroacupuncture, cupping, and moxibustion.

SEC. 2.5. Section 4935 of the Business and Professions Code is amended to read:

4935. Any person who practices acupuncture or holds himself or herself out as practicing or engaging in the practice of acupuncture, unless he or she possesses an acupuncturist's license, or is participating in a course or tutorial program in acupuncture, as provided for in this chapter, is guilty of a misdemeanor.

A person holds himself or herself out as engaging in the practice of acupuncture by the use of any title or description of services incorporating the words "acupuncture," "acupuncturist," "certified acupuncturist," "licensed acupuncturist," "C.A.," "Lic. Ac.," "oriental medicine," "oriental herbalist," "certified herbalist," or by representing that he or she is trained, experienced, or an expert in the field of acupuncture, oriental medicine, or Chinese medicine.

SEC. 3. Section 4937 of the Business and Professions Code is amended to read:

4937. An acupuncturist's license authorizes the holder thereof:

(a) To engage in the practice of acupuncture.

(b) To perform or prescribe the use of oriental massage, acupressure, breathing techniques, exercise, or nutrition, including the incorporation of drugless substances and herbs as dietary supplements to promote health. Nothing in this section prohibits any person who does not possess an acupuncturist's license or another license as a healing arts practitioner from performing, or prescribing the use of, oriental massage, breathing techniques, exercises, or nutrition to promote health, so long as those activities are not performed or prescribed in connection with the practice of acupuncture.

SEC. 3.5. Section 4938 of the Business and Professions Code is amended to read:

4938. The committee shall issue a license to practice acupuncture to any person who makes an application and meets the following requirements:

(a) Is at least 18 years of age.

(b) Furnishes satisfactory evidence of completion of (1) an educational and training program or (2) a tutorial program in the practice of an acupuncturist which is approved by the committee or (3) in the case of an applicant who has completed education and training outside the United States and Canada, documented educational training and clinical experience which meets the standards established pursuant to Sections 4939 and 4941.

(c) Passes an examination administered by the committee which tests the applicant's ability, competency, and knowledge in the practice of an acupuncturist. The examination shall include a practical examination of the skills required to competently engage in such practice. Such examination shall be prepared and administered in accordance with regulations adopted by the committee.

(d) Is not subject to denial pursuant to Division 1.5 (commencing

with Section 475).

(e) Completes a clinical internship training program approved by the committee. The clinical internship training program shall not exceed nine months in duration and shall be located in a clinic in this state, which is approved by the committee pursuant to Section 4939. The length of the clinical internship shall depend upon the grades received in the examination and the clinical training already satisfactorily completed by the individual prior to taking the examination. On and after January 1, 1987, individuals with 800 or more hours of documented clinical training shall be deemed to have met this requirement. The purpose of the clinical internship training program shall be to assure a minimum level of clinical competence.

Each applicant who qualifies for a license shall pay, as a condition precedent to its issuance and in addition to other fees required, the initial licensure fee.

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 1191

An act to add Section 1367.12 to the Health and Safety Code, and to add Section 10195.8 to the Insurance Code, relating to health care.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 26, 1987]

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

SECTION 1. Section 1367.12 is added to the Health and Safety Code, to read:

1367.12. No health care service plan that administers Medicare coverage and federal employee programs may require that more than one form be submitted per claim in order to receive payment or reimbursement under any or all of those policies or programs.

SEC. 2. Section 10195.8 is added to the Insurance Code, to read:

10195.8. No insurer that administers Medicare coverage and federal employee programs may require that more than one form be submitted per claim in order to receive payment or reimbursement under any or all of those policies or programs.

CHAPTER 1192

An act to amend Sections 11320.2, 13240, and 13250 of, to add Section 13220.5 to, and to add Chapter 5.5 (commencing with Section 13275) to Part 3 of Division 9 of the Welfare and Institutions Code, relating to refugee assistance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987]

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

SECTION 1. The Legislature hereby finds that newly arriving refugees are benefiting from the unique assistance and service delivery model provided in the Refugee Demonstration Project for refugee families. The Legislature further finds that the Refugee Demonstration Project is due to terminate on July 1, 1988, before most refugee-impacted counties will have implemented the Greater Avenues for Independence program, thereby leaving many newly arrived refugees without appropriate employment-directed services. The Legislature therefore declares that it is in the best interest of the people of the State of California to extend the termination date of the Refugee Demonstration Project and permit a transition period to assure there is no service gap and to involve refugee groups, service providers, and voluntary agencies in meaningful planning in order that GAIN services adequately respond to refugee needs.

SEC. 2. Section 11320.2 of the Welfare and Institutions Code is amended to read:

11320.2. (a) County welfare departments shall administer this chapter, in a manner consistent with the provisions of this chapter and regulations adopted by the department in order to implement this chapter.

(b) Each county welfare department, with the cooperation of community college districts, county offices of education, and local private industry councils established under Chapter 4 (commencing with Section 15030) of Division 8 of the Unemployment Insurance Code, shall design a package of services to be provided to participants receiving services under this article, that reflect available resources and local job market needs. A joint plan may be submitted by two or more consenting counties.

Each county plan shall include a participant and labor market needs assessment, to be revised annually, which shall specify all of the following:

(1) The full employment goal of the plan, which shall be the provision of unsubsidized employment for all county registrants subject to this article.

(2) An assessment of the county's current and projected unsubsidized employment needs.

(3) An inventory of services, including those specified in subdivision (c) of Section 11320, available to county residents.

(4) The amount and kind of services required to meet the full employment goal for all registrants.

(5) The amount and kind of services that will be used in the plan year.

(6) An assessment of what services are currently unavailable and needed, including child care services, to meet the full employment goal and a plan for developing the availability of these services within a reasonable period of time, including a proposed program budget.

(c) The county welfare department shall submit to the department a program budget proposal in conjunction with the county plan, as specified in this section. The budget proposal shall specify the costs associated with providing the range of services included in the plan in the most cost-effective manner. The budget proposal shall identify the amount of funds that the county expects to spend for each component and shall provide supporting detail regarding the caseloads anticipated in each component and the amount that will be spent for (1) county employees, by classification, (2) administrative support and overhead, and (3) contracted services and support. Prior to final approval of the county's plan, as specified in subdivision (f), the department shall notify each county of the amount of its allocation of funds to carry out the plan and the assumptions used to develop that allocation. If the allocation is less than the amount of funds that the county proposed in the program budget, the department shall notify the county that the proposed program budget exceeds the funds available. The department shall specify how the costs proposed by the county exceed the costs used to develop the county's allocation. The county may provide any additional documentation to justify the higher funding level. If, after reviewing the additional information, the department finds that the proposed program costs are not reasonable or cost-effective, the county shall submit the necessary revisions to its plan and program budget to keep program expenditures within the amount of its allocation.

In subsequent years, the county welfare department shall submit its program budget proposal for this article at the same time as the county submits its administrative cost control plan for the Aid to Families with Dependent Children, Medi-Cal, and Food Stamp programs. If services are not available in the county, the county plan may include provisions for the purchase of services from other counties.

The plan shall be approved by the board of supervisors of each county, after a public hearing is held in accordance with existing county public hearing procedures that provide adequate notice and an opportunity for affected groups and individuals to present their views and suggestions. In approving the plan, the board shall consider the views presented by affected groups during, and as part of the record of, the public hearing.

Prior to implementation, each plan must receive approval by the department. In determining whether a plan should be approved, the department shall consider the projected long-range cost-effectiveness of the plan, in addition to the appropriateness of the services proposed to be delivered under the plan, given the local labor market, maximum utilization of existing and generic services, and administrative ease.

No plan shall be approved by the department that does not provide an adequate range of services as described in Section 11320.3. With respect to large counties, as defined by the department for cost control purposes, "an adequate range of services" means that the counties shall provide all of the services outlined in Section 11320.3.

If two or more counties submit a joint plan, and the joint plan serves a participant caseload equal to or greater than a large county, the plan shall provide for all of the services outlined in Section 11320.3. If the services listed in Section 11320.3 are not provided for in the county plan, the county shall submit a justification as to why the services are not necessary. No plan shall be approved which requires job search and work experience of participants to the exclusion of a range of services and which does not specify the range of services, both existing and proposed to be offered participants, in accordance with this section.

No funds appropriated for purposes of this article shall be used to fund education or training services in any county plan if these services could reasonably be provided by local educational agencies from Section A or Section B of the State School Fund which are not otherwise committed. No local educational agency shall be authorized to receive funds appropriated for purposes of this article unless it has demonstrated that it has fully committed all the funds from Section A or Section B of the State School Fund available to it, as certified by the district to the Chancellor of California Community Colleges, or the Superintendent of Public Instruction. The Chancellor of the California Community Colleges and the Superintendent of Public Instruction, as appropriate, shall certify this information to the Director of Finance.

(d) In order to measure the effectiveness of county plans under this article, performance standards for this article shall be consistent with those developed for service delivery areas pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code. The Health and Welfare Agency shall insure that these standards include, but are not limited to all of the following goals:

(1) The training program participants for unsubsidized employment.

(2) Reducing welfare costs by increasing earnings of program participants in unsubsidized employment.

(3) Placement in unsubsidized employment resulting from all program components.

(e) (1) A county plan may also provide that the program

provided for in this article shall apply to recipients of aid under Part 5 (commencing with Section 17000), except that no funds appropriated for purposes of this article shall be utilized for purposes of applying this article to these individuals. A county plan may also provide that the program provided for in this article shall apply to refugees receiving Refugee Cash Assistance or assistance under Article 1 (commencing with Section 13200) of Chapter 5.2. The county shall maintain separate accounting records of expenditures related to applicants for, and recipients of, aid under this chapter, and for the individuals to whom the program applies pursuant to this subdivision. If a county elects to apply the program provided for in this article to refugees receiving Refugee Cash Assistance or assistance under Article 1 (commencing with Section 13200) of Chapter 5.2 or to refugee recipients of aid under Part 5 (commencing with Section 17000), costs of applying the program shall be funded from the county's federal social services and targeted assistance allocation as provided for under Chapter 5.5 (commencing with Section 13275).

(2) If, pursuant to paragraph (1), a county elects to apply the program provided for in this article to refugees or to recipients of aid under Part 5 (commencing with Section 17000), these individuals shall have the same rights, duties, and responsibilities that a participant has who is an applicant for, or a recipient of, aid under this chapter. Any participation by general assistance recipients shall not constitute any actual or implied responsibility for, or assumption of, costs of general assistance by the state.

(f) Each county shall submit its plan to the department within two years from the effective date of this article, as added during the 1985–86 Regular Session. The department shall aprove a county plan within a reasonable period of time after submisison of the county plan. Notwithstanding subdivision (f), a county may phase in the participation in its program for all qualified persons over a period of up to two years from the date upon which the program commences to operate in the county. A county may incorporate into its plan any existing employment or training program for applicants for, or recipients of, aid under this chapter which is operating in the county to the extent that the program is consistent with this article.

(g) This program shall be fully operational on a statewide basis within three years after the effective date of this article, as added during the 1985–86 Regular Session, by which time the department shall approve all county plans.

(h) Counties shall continually monitor their program expenditures throughout the fiscal year. If a county determines that its anticipated expenditures will exceed the amount of that year's allocation as a result of an unexpected event, including caseload increases, court cases, or significant justifiable increases in component costs, the county shall immediately notify the department and submit a reduction plan to the department. The department shall review and respond to a county's proposed

reduction plan within 30 days of reciept of the plan. The department may provide additional funds for the existing appropriation to forestall the need for county program reductions. If the department does not respond within 30 days, the plan shall be deemed to be approved. If the department disapproves the reduction plan the county shall continue to provide services as specified in the approved plan. The department shall submit within 30 days of the disapproval of a reduction plan, a report to the Joint Legislative Budget Committee setting forth the reason for the department's disapproval.

A county's approved reduction plan shall remain in effect for no longer than the duration of the fiscal year in which the plan is approved. At the beginning of the following fiscal year, the county shall provide services pursuant to its approved program plan.

A county's plan shall propose only the following methods of reducing costs and shall use only those methods that are necessary to bring anticipated expenditures within the amounts allocated to the county, and shall use these methods for only a specified period and only in the order in which they appear below:

(1) Temporary exemption of new applicants for aid under the Aid to Families with Dependent Children—Unemployed Parent program.

(2) Temporary exemption of all Aid to Families with Dependent Children Unemployed Parent recipients who have been continuously on aid for less than one year.

(3) Temporary assignment of volunteer registrants to a waiting list, during which time these registrants will receive no services.

(4) Temporary exemption of all new appplicants for aid under the Aid to Families with Dependent Children—Family Group program.

(5) Temporary exemption of all Aid to Families with Dependent Children—Family Group recipients who have been on aid for one year or more.

(6) Temporary exemption of all Aid to Families with Dependent Children—Family Group recipients who have been on aid continuously for less than one year.

(7) Temporary exemption of all Aid to Families with Dependent Children—Family Group recipients who have been continuously on aid for less than two years.

(8) Temporary exemption of all participants, based on the time on aid, with participants who have been on aid the longest being the last to receive exemptions.

Counties that can remain within their allocation shall not implement reductions.

(i) The department shall evaluate the program and shall collect data on program cost, caseload movement, and program outcomes, including data on all of the following:

(1) The numbers of voluntary and mandatory participants in each program component.

(2) The amount of time that each participant remains in each

component and the types of services, including supportive services, each participant receives.

(3) The number of recipients in each component that move to each of the other components.

(4) The number of participants sanctioned as well as the amount and duration of the sanction, the reason for the sanction, and the amount of time the participant was in the program prior to the sanction.

(5) The number of participants who go off aid, and to the extent possible, the reason they have gone off aid.

(6) The number of applicants who reapplied for and received aid after having gone off aid during the time they were participating in the program.

(7) The starting salary of employed participants.

(8) Participants job retention rates.

(9) The appropriateness of the categorization of participants.

(10) The appropriateness of assessments and employment plans.

(11) The appropriateness of preemployment preparation assignments, including a periodic review of the appropriateness of these assignments.

(12) The effectiveness of training components based upon the number of individuals placed in employment.

(13) The timeliness of preemployment prepration assignment reviews.

(14) The appropriateness of sanctions applied under this article.

The department may use standard statistical sampling methods to conduct the evaluation. The department shall maintain this data for the state and for each county. The department may contract with a qualified organization for the evaluation required by this section. The department shall submit a plan for implementing this evaluation to the Joint Legislative Budget Committee. To the extent possible, the data collection system for this evaluation shall be designed to collect data in the least expensive and least time-consuming manner possible.

Utilizing the data compiled pursuant to this subdivision, the department shall, commencing one year after the effective date of this article, as added during the 1985–86 Regular Session, annually report, by January 10, to the Legislature and the Governor on the effectiveness of the program provided for in this article. The Legislative Analyst shall submit a review of this report to the Legislature by April 15 of each year.

SEC. 3. Section 13220.5 is added to the Welfare and Institutions Code, to read:

13220.5. (a) The recipient's participation in refugee employment-related and English language training services shall be guided by an employability plan directed toward the goal of self-sufficiency. The employability plan shall include at least all of the following:

(1) A goal to be attained upon completion of the

employment-related and English language training services.

(2) A description of the job placement, English and occupational training, support service and employment elements with specified objectives and timeframes for completion of each element.

(3) A description of the rights, duties, and responsibilities of the program participants, including the consequences of a refusal to participate in employment-related and English language training services.

(b) The employability plan shall include consideration of the client's employability profile, and shall, to the extent possible, include English language or occupational training where that training will enhance the participant's ability to attain self-sufficiency.

(c) Upon completion of each service component in the employability plan, the client shall be assessed to determine progress towards the goal and, where a client has participated in 90 days of job search and failed to become employed, consideration shall be made for referral to other employment-related and English language training services which could increase his or her employability.

(d) Participant contracts developed for recipients of aid under this chapter in accordance with their participation in the program authorized under Article 3.2 (commencing with Section 11320) of Chapter 2 shall be deemed to meet the requirements of this section.

SEC. 4. Section 13240 of the Welfare and Institutions Code is amended to read:

13240. One year after the commencement of the implementation of this section, and annually thereafter, the department shall submit a report to the Legislature evaluating the effectiveness of the program provided for under this chapter. These reports shall be due to the Legislature 60 days after the periodic reporting period's final date.

The department's reports shall detail any economic and other advantages to the people of California which have resulted from the program, including the decreased use of public cash assistance due to employment and the effect on refugees who, at the point of the termination of eligibility under this chapter, make a transition to the Aid to Families with Dependent Children program.

SEC. 5. Section 13250 of the Welfare and Institutions Code is amended to read:

13250. This chapter shall be operative only if adequate federal funding is made available and necessary waivers are obtained from the federal government necessary to implement this chapter.

The department shall implement this demonstration project on July 1, 1984, or as soon thereafter as is possible. This demonstration project shall be in operation for a period of four years and three months, commencing July 1, 1985, to September 30, 1989, inclusive.

SEC. 6. Chapter 5.5 (commencing with Section 13275) is added to Part 3 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 5.5. COUNTY ADMINISTRATION OF REFUGEE SOCIAL SERVICES FUNDS

13275. The department shall require that a county's costs of administering any employment-related and English training program funded by the Refugee Social Services program funds derived from the federal Refugee Act of 1980, as amended, shall not exceed the percentage for county administrative costs permitted by the department in administering the Refugee Targeted Assistance Program.

13276. (a) After setting aside the necessary state administrative funds, the department shall allocate all social services funds derived from the federal Refugee Act of 1980 (Public Law 96-212), as amended, which are required to be used for employment-related and English language training to each eligible county in the same proportion that refugees on aid in each eligible county bear to the total refugees on aid in all eligible counties.

(b) Commencing October 1, 1987, all federal targeted assistance funds received by the department shall be allocated to eligible counties pursuant to subdivision (a).

(c) For the purposes of this section:

(1) "Aid" means the Aid to Families with Dependent Children program, the Refugee Cash Assistance program, and the Refugee Demonstration Project.

(2) "Eligible county" means a county designated as impacted using a formula to be developed by the department based upon the aided refugee population in the county.

13277. (a) The department shall notify county boards of supervisors of the availability of funds described under subdivision (a) of Section 13276 and shall request that the county inform the department as to whether or not it wishes to administer the refugee services funds in accordance with Section 13275. If the county chooses to administer refugee services funds, it shall designate an agency which shall be responsible for implementing a plan for those services. The plan shall be in accordance with subdivisions (b) and (c) and Sections 13278 and 13279. In the event that the county chooses not to administer the refugee social services funds, the department shall continue to administer the funds on behalf of the county.

(b) Under either alternative specified in subdivision (a), the funds shall be administered based on a plan developed by the county and approved by the department. The plans shall be developed in accordance with guidelines issued by the department and shall, at a minimum, meet all of the following conditions:

(1) Each county board of supervisors shall ensure that the county planning process is designed in such a way as to facilitate refugee participation and public input in that process.

(2) The plan shall include a description of how social services and targeted assistance funds derived from the federal Refugee Act of

1980 (Public Law 96-212), as amended, and allocated to the county by the department will be used to provide services to refugees.

(3) Each plan shall specifically address how services will be delivered to refugees on aid in each county during the period prior to full integration of the county planning and delivery system into the Greater Avenues for Independence system as required in Section 13278.

(4) Each plan shall contain assurances that supportive services, as described in subdivision (e) of Section 11320.3, shall be available to refugees on aid under the Refugee Demonstration Project.

(5) Except in counties using these funds to pay for services for refugees participating in the program authorized under Article 3.2 (commencing with Section 11320) of Chapter 2, the plan shall provide for priority consideration for funding refugee community-based organizations if they demonstrate the capacity to implement the proposed programs. This capacity shall be comparable to that of other competitors who qualify for funding.

(c) In counties electing to utilize these funds to pay for any services provided to, or activity performed on behalf of, any refugee participating in the program authorized under Article 3.2 (commencing with Section 11320) of Chapter 2, the plan approved under Section 11320.2 shall meet the requirements of subdivision (b).

13278. Commencing October 1, 1989, the county shall, to the extent permitted by federal law, utilize funds as described in subdivision (a) of Section 13276 to pay for the costs of any service provided to, or activity performed on behalf of, any refugee participating in the program authorized under Article 3.2 (commencing with Section 11320) of Chapter 2, provided that cost is allowed under a plan approved in accordance with Section 11320.2 and federal requirements for refugee employment-related and English language training funds. The plan shall be developed with significant participation by and input from refugee community organizations, voluntary agencies, and other local public and private entities involved in the refugee resettlement process.

13279. Employment-related and English training shall be available to recipients of Refugee Cash Assistance in those counties which are designated as impacted, pursuant to paragraph (2) of subdivision (c) of Section 13276. If the county does not provide these services under the program authorized under Article 3.2 (commencing with Section 11320), up to 10 percent of the funds allocated to the county in accordance with Section 13276 may be used to establish a separate system to provide the services.

13280. Refugee social services funding which is identified as Refugee Mutual Assistance Incentive funds shall be retained by the department and used to fund mutual assistance associations to provide social adjustment and cultural orientation services.

13281. The requirements established by this chapter shall be applicable only so long as federal funds are available from the federal

Refugee Act of 1980 (Public Law 96-212), as amended.

SEC. 7. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted within 120 days of the enactment of this act in order to implement this act shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare, and shall not be subject to the review and approval of the Office of Administrative Law. The regulations shall not remain in effect more than 120 days unless the adopting agency complies with all the provisions of Chapter 3.5 as required by subdivision (e) of Section 11346.1 of the Government Code.

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

In order to ensure that this program can provide quality needed services to refugees and demonstrate its value for the people of the State of California prior to January 1, 1988, it is necessary that this act go into immediate effect.

CHAPTER 1193

An act to add Article 6.7 (commencing with Section 18513) to Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987.]

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

SECTION 1. Article 6.7 (commencing with Section 18513) is added to Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code, to read:

Article 6.7. Designations for the Vietnam Veterans Memorial Fund

18513. (a) Any taxpayer may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the Vietnam Veterans Memorial Account in the General Fund, as established pursuant to Section 1306 of the Military and Veterans Code.

(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 beginning on or after January 1, 1987, and before

January 1, 1991, 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.

If the amount designated exceeds the amount actually available for designation, the amount designated shall be adjusted to correspond to the amount actually available for designation.

(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 Vietnam Veterans Memorial Fund to allow for the designation permitted under subdivision (a). The forms shall also include in the instructions the information that the contribution may be in the amount of one dollar ($1) or more and that the contribution shall be used to build a memorial to Vietnam veterans and, if contributions exceed the cost of the Vietnam Memorial, excess contributions shall be used to construct a memorial to veterans generally.

(f) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 for any contribution made pursuant to subdivision (a).

18513.1. The Franchise Tax Board shall determine annually the total amount designated pursuant to this article and shall notify the Controller of that amount.

The Controller shall transfer from the Personal Income Tax Fund to the Vietnam Veterans Memorial Account in the General Fund an amount equal to the total amount designated by individuals pursuant to Section 18513 for payment into that account.

18513.2. Notwithstanding Section 13340 of the Government Code, all money transferred to the Vietnam Veterans Memorial Account in the General Fund pursuant to Section 18513.1 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 Vietnam Veterans Memorial Commission for use in the construction of a suitable memorial to Vietnam veterans at the State Capitol.

(c) If moneys in the account exceed the amount required to construct a Vietnam Veterans Memorial, the balance to the Veterans Memorial Commission to be used for a veterans' memorial pursuant to Chapter 5 (commencing with Section 1310) of Division 6 of the *Military and Veterans Code*.

CHAPTER 1194

An act to add Article 6.6 (commencing with Section 69618) to Chapter 2 of Part 42 of the Education Code, relating to student financial aid, and making an appropriation therefor.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987]

I am deleting the appropriation contained in proposed Education Code Section 69618.3 contained in Assembly Bill No. 27.

This bill would appropriate $105,000 to the Student Aid Commission to establish and administer the Engineering and Computer Science Doctoral Assistance Program. The purpose of the program is to award grants and loans to engineering and computer science doctoral students who commit to teach those subjects at a postsecondary institution.

Over the last three years, the state has provided premium salaries for selected faculty, including those in the subject matter fields of engineering and computer science. Also, the state currently provided over $3 million annually for Graduate Fellowships. These awards are based on need and are designed to emphasize fields where there are personnel shortages, including engineering and computer sciences.

Moreover, the demands placed on budget resources require all of us to set priorities. The budget enacted in July, 1987 appropriated nearly $41 billion in state funds. This amount is more than adequate to provide the necessary essential services provided for by State Government. It is not necessary to put additional pressure on taxpayer funds for programs that fall beyond the priorities currently provided.

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties.

I would, however, consider funding the provisions of this bill during the budget process for Fiscal Year 1988–89. It is appropriate to review the relative merits of this program in comparison to all other funding projects. The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit.

With this deletion, I approve Assembly Bill No. 27.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Article 6.6 (commencing with Section 69618) is added to Chapter 2 of Part 42 of the Education Code, to read:

Article 6.6. Engineering and Computer Science Doctoral Assistance Program

69618. (a) The Legislature hereby recognizes that there is a serious and growing shortage of high quality postsecondary faculty in the fields of computer science and engineering, partly due to the shortage of students entering graduate school and the postsecondary teaching profession in these fields.

(b) 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 Legislature also finds that financial aid options are an important consideration in a student's decision to pursue a doctoral

degree in the fields of engineering and computer science rather than seeking employment in business or industry after obtaining a baccalaureate degree.

(c) It is the intent of the Legislature to establish the Engineering and Computer Science Doctoral Assistance Program to provide loans for graduate students who commit to teach in the faculty shortage areas of engineering and computer science in postsecondary educational institutions in this state.

(d) It is the intent of the Legislature that the Engineering and Computer Science Doctoral Assistance Program encourage residents of this state to acquire a doctoral degree in engineering or computer science, and to teach in those fields in the state's four-year public postsecondary educational institutions. It is further the intent of the Legislature that the Engineering and Computer Science Doctoral Assistance Program identify and recruit ethnic minority students with a strong undergraduate academic preparation to enroll in doctoral programs in engineering and computer science. The Legislature finds that this will provide a public benefit by serving to lessen severe faculty shortages in these fields, which impede the economic development of this state, particularly in the area of high technology.

69618.1. (a) The Student Aid Commission, upon certification by an eligible public university of the receipt, from an approved private company or industry group, of a one-to-one matching industry fellowship, shall award annually a state fellowship to the extent state funds are made available for this purpose.

(b) There shall be no more fellowships awarded than are provided for in the Student Aid Commission annual appropriation for this program.

(c) The commission shall select the fellowship recipients according to the provisions of this article. Fellowships shall consist of an annual stipend of ten thousand dollars ($10,000) and, in addition, up to three thousand dollars ($3,000) annually for public university recipients for tuition and fees. The fellowship award shall be in the form of a loan.

(d) Fellowship recipients who upon completion of their doctoral program elect to teach in their field shall have the loan forgiven in equal installments over a period of four years if they teach at a California public college or university. Fellowship recipients who elect not to teach shall repay the loan according to procedures established by the Student Aid Commission pursuant to subdivision (a) of Section 69618.2. Loan repayments shall be used to fund new awards under this article. This subdivision may be utilized by the fellowship recipient to apply to the outstanding balance of the loan, provided at no time the loan was past due.

(e) The Student Aid Commission shall maintain records necessary for meeting the requirements of subdivision (b) of Section 69618.2 regarding fellowships supported by corporate and other nonstate funds as well as fellowships awarded under this article, to the extent

that information is provided by the sponsors of fellowships funded by corporate and other nonstate funds. Other than compiling this information and verifying the existence of matching fellowships, the Student Aid Commission shall not have other responsibilities for the fellowships at other institutions supported by corporate or other nonstate funds unless those funds are given directly to the university for this program.

(f) Fellowships shall be awarded only to students who are enrolled or will be enrolled in a California public university offering doctoral programs approved and designated by the Student Aid Commission as programs in engineering and computer science fields which meet statewide economic needs.

(g) A fellowship shall be awarded for one academic year, but may be renewed, subject to the continued eligibility of the student and the availability of appropriated funds. The fellowship award shall be disbursed in equal amounts each academic term, contingent upon the student continuing in good academic standing on the designated program. In no case shall a student be eligible for a fellowship for more than four years of study.

(h) Affirmative action and equal opportunity goals shall be considered when selecting fellowship recipients. A list of undergraduate program participants who have a strong academic preparation, the potential to succeed in graduate study, and an interest in a career as a college professor shall be prepared by the appropriate unit of the Student Aid Commission. A recipient of a fellowship shall have a teaching assignment equal to a minimum of one-quarter of the time required for a full-time faculty teaching assignment for two years of the maximum four-year fellowship period and shall continue in good standing in full-time attendance in the doctoral program.

69618.2. (a) The Student Aid Commission is requested to convene an advisory committee whose memberships shall include, but not be limited to, academic and financial aid representatives from public universities and representatives from industry. The advisory committee shall formulate eligibility criteria and shall devise the necessary administrative procedures for the implementation of the California Engineering and Computer Science Doctoral Assistance Program. The committee shall also develop procedures to assist graduates in finding teaching assignments in California.

(b) The Student Aid Commission is requested to submit an annual report to the Legislature regarding all of the following, on the basis of sex, age, ethnicity, and state of residency:

(1) The total number of doctoral degrees granted to program recipients in each of the two fields.

(2) The total number of program recipients who become postsecondary faculty in the fields of engineering and computer science and the number of years of teaching service completed by each recipient.

69618.3. The sum of one hundred five thousand dollars ($105,000) is appropriated from the General Fund to the Student Aid Commission for the purposes of funding the California Engineering and Computer Science Doctoral Assistance Program.

CHAPTER 1195

An act relating to the eradication of the white garden snail, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 26, 1987.]

I am deleting the $225,000 appropriation contained in Section 1 of Assembly Bill No. 186

This bill would appropriate $225,000 from the General Fund to the Department of Food and Agriculture for the purpose of eradicating white garden snail in San Diego County

The demands placed on budget resources require all of us to set priorities The budget enacted in July 1, 1987 appropriated nearly $41 billion in state funds. This amount is more than adequate to provide the necessary essential services provided for by State Government It is not necessary to put additional pressure on taxpayer funds for programs that fall beyond the priorities currently provided

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties

I would, however, consider funding the provisions of this bill during the budget process for Fiscal Year 1988–89. It is appropriate to review the relative merits of this program in comparison to all other funding projects. The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit

With this deletion, I approve Assembly Bill No. 186.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The sum of two hundred twenty-five thousand dollars ($225,000) is hereby appropriated from the General Fund to the Department of Food and Agriculture for the purpose of eradicating white garden snails (Theba pisana) from San Diego County.

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 white garden snail (Theba pisana) is a serious pest which threatens the agricultural industry and the availability of food for the general public. In order to eradicate white garden snails as soon as possible so as to prevent economic loss to the industry and food loss to the public, it is necessary that this act take effect immediately.

CHAPTER 1196

An act to add and repeal Section 9314.5 of the Welfare and Institutions Code, relating to aging, and making an appropriation therefor.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987]

I am deleting the appropriations contained in Section 2 of Assembly Bill No. 909

This bill would appropriate $50,000 in the 1987–88 Fiscal Year from the General Fund to the Department of Aging Linkages program to establish a new Linkages site in an underserved, rural site.

The 1987 Budget Act provides $3.9 million to support the thirteen site facilities in the Linkages Program While I am supportive of this pilot program which provides case management of elderly persons at risk of placement in a long term care facility, it is due to be evaluated by the Department of Aging by March of 1988 I believe it is premature to pursue additional program sites until we have the benefit of a program evaluation to determine the effectiveness of the Linkages Program as a component of long term care services.

Moreover, the demands placed on budget resources require all of us to set priorities. The budget enacted in July, 1987 appropriated nearly $41 billion in state funds. This amount is more than adequate to provide the necessary essential services provided for by State Government. It is not necessary to put additional pressure on taxpayer funds for programs that fall beyond the priorities currently provided.

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties.

I would, however, consider funding the provisions of this bill during the budget process for Fiscal Year 1988–89 It is appropriate to review the relative merits of this program in comparison to all other funding projects. The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit

With this deletion, I approve Assembly Bill No. 909

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 9314.5 is added to the Welfare and Institutions Code, to read:

9314.5. (a) The Department of Aging shall, subject to the availability of funds appropriated therefor, as part of the Linkages Program, conduct a grants-in-aid program for the following purposes:

(1) To assist in the establishment of new community-based long-term care programs appropriate to underserved and rural areas.

(2) To assist in the development of case management in areas that currently have no case management services.

(3) To assist in the development of home- and community-based long-term care service systems that accommodate sparse and widely disbursed populations, that are often located in geographic service areas that present topographic and climatic hardships.

(4) To assist in the provision of case management at lower service and cost levels than are required in more population-dense communities and that are designed specifically to respond to and build on the unique characteristics and resources available within

each selected geographic area.

(b) To the extent feasible, within available funding, each local program shall:

(1) Be guided by existing policies of the Department of Aging as now provided for in the Linkages Program with any flexibilities to be negotiated, placed in writing, and agreed upon by both the Department of Aging and the grantee agency.

(2) Include the services of a minimum of one full-time professional and adequate clerical and fiscal support staff.

(c) Each local program funded under this section shall:

(1) Be placed within a host agency that has experience in providing health or social services, or both, to similar adult populations.

(2) Be funded at one hundred thousand dollars ($100,000) each per fiscal year.

(3) Demonstrate, to the satisfaction of the Department of Aging, that the program area has existing services sufficient to permit an effective case management program to operate. This requirement shall be met within Department of Aging guidelines for flexibility in rural and underserved areas.

(d) For purposes of this section, "Linkages Program" means the Institutionalization Prevention Services Program established pursuant to Chapter 4.7 (commencing with Section 9390).

(e) The Department of Aging shall include an evaluation of the program and the implementation of this section in its annual report to the Legislature pursuant to Section 9395.

(f) This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute chaptered prior to that date, extends or deletes that date.

SEC. 2. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the Department of Aging, without regard to fiscal years, for the purposes prescribed by Section 9314.5 of the Welfare and Institutions Code, for the period from January 1, 1988, through June 30, 1988. Funding for the duration of the demonstration program shall be appropriated in the annual Budget Act, not to exceed one hundred thousand dollars ($100,000) per program site per fiscal year.

CHAPTER 1197

An act to add Sections 10802.1 and 10802.5 to the Health and Safety Code, relating to health, and making an appropriation therefor.

[Approved by Governor September 25, 1987. Filed with Secretary of State September 26, 1987]

I am deletmg the $635,000 appropriation contained in Section 3 of Assembly Bill No. 1397.

This bill would appropriate $635,000 (General Fund) to the Department of Health Services for an expansion of the Birth Defects Monitoring Program into 20 additional counties. The bill also requires the development of a report on the feasibility of expandmg the program to Los Angeles County

The existing Birth Defects Monitoring Program covers 37 counties and has a current year appropriation of $3,286,000. An evaluation of the existing program has been recently completed There has not been sufficient time, though, to fully review and evaluate the benefits of the program to determine if the proposed expansion is appropriate

The demands placed on budget resources require all of us to set priorities. The budget enacted in July, 1987 appropriated nearly $41 billion in state funds. This amount is more than adequate to provide the necessary essential services provided for by State Government. It is not necessary to put additional pressure on taxpayer funds for programs that fall beyond the priorities currently provided.

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties.

I would, however, consider funding the provisions of this bill during the budget process for Fiscal Year 1988–89 It is appropriate to review the relative merits of this program in comparison to all other funding projects The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit

With this deletion, I approve Assembly Bill No. 1397

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 10802.1 is added to the Health and Safety Code, to read:

10802.1. During the second half of the 1987–88 fiscal year, the birth defects monitoring program shall be expanded to the Counties of Alpine, Butte, Glenn, Inyo, Lake, Lassen, Mendocino, Modoc, Mono, Plumas, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, Shasta, Sierra, Siskiyou, Tehama, Trinity, and Ventura.

SEC. 2. Section 10802.5 is added to the Health and Safety Code, to read:

10802.5. By January 1, 1989, the department shall submit, to the health policy and fiscal committees of the Legislature, a report on the feasibility of expanding the birth defects monitoring program into the County of Los Angeles. If the expansion is feasible, this report shall include plans for phasing this population into the system, and a listing of the funds needed for this expansion.

SEC. 3. (a) There is hereby appropriated from the General Fund to the State Department of Health Services, the sum of six hundred thirty-five thousand dollars ($635,000), for expenditure during the last six months of the 1987–88 fiscal year for purposes of implementing Section 10802.1 of the Health and Safety Code, as

contained in Section 1 of this act.

(b) It is the intent of the Legislature that funding for the birth defects monitoring program in future years be through the normal budgetary process.

CHAPTER 1198

An act to add Chapter 9 (commencing with Section 92690) to Part 57 of the Education Code, relating to the University of California, and making an appropriation therefor.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 26, 1987.]

I am deleting the $240,000 appropriation contained in Section 2 of Assembly Bill No 1597.

This bill would appropriate $240,000 to the University of California Regents, subject to their approval, to establish the California Center for Cooperatives The purpose of the center would be to facilitate and enhance the development of cooperatives, both agricultural and consumer, through various activities

The demands placed on budget resources require all of us to set priorities. The budget enacted in July, 1987 appropriated nearly $41 billion in state funds. This amount is more than adequate to provide the necessary essential services provided for by State Government It is not necessary to put additional pressure on taxpayer funds for programs that fall beyond the priorities currently provided

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties

I would, however, consider funding the provisions of this bill during the budget process for Fiscal Year 1988–89 It is appropriate to review the relative merits of this program in comparison to all other funding projects. The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit

With this deletion, I approve Assembly Bill No 1597.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Chapter 9 (commencing with Section 92690) is added to Part 57 of the Education Code, to read:

CHAPTER 9. THE CALIFORNIA CENTER FOR COOPERATIVES

92690. The Legislature finds and declares all of the following:

(a) That California consumers enjoy the economic benefits of a substantial cooperative business sector. An estimated one million people participate in a diversity of consumer cooperatives that includes, but is not limited to, housing, child care, food, insurance and health care, student, rural electric, senior citizen, cable, and funeral cooperatives, as well as employee-owned arts and crafts cooperatives and other small business cooperatives. Credit unions, as financial cooperatives, provide services to over 6.2 million members.

In addition, over 40,000 California farmers belong to agricultural cooperatives which produce and market over six billion dollars

($6,000,000,000) of food and fiber products annually.

(b) That land grant universities of this nation, including the University of California, have a long tradition of providing research, educational, and extension programs of direct interest to cooperatives.

(c) That public understanding of the nature and role of cooperatives is minimal. In general, the public does not understand how the cooperative form of business structure is being utilized for their benefit.

(d) That public understanding about the benefits of the cooperative form of business could be greatly improved through a coordinated effort by the University of California and other institutions of higher education to focus on the role of cooperatives in the California economy.

(e) That in the fast changing world economic environment it is important to California that its cooperatives remain a dynamic sector within the state's economy. In order to enhance this sector's development the state is asked to support the establishment of a California Center for Cooperatives.

(f) That the establishment of a California Center for Cooperatives would help to meet the growing need for information, knowledge, and the professional skills necessary to increase the competitiveness of California's cooperatives in the state, national, and world trade and economy.

92691. In order to facilitate the development of cooperatives in the business and education sectors, the University of California is requested to establish a California Center for Cooperatives. The university is further requested to give careful consideration to locating the center at the University of California, Davis, due to the demonstrated leadership role of that campus in providing research, education, and extension services to cooperatives. It is the intent of the Legislature that the center be interdisciplinary in nature and be administered by the university through the appointment of a director.

92692. It is the intent of the Legislature that the center be operated by the University of California to do the following:

(a) Assist cooperatives in the state through the provision of the following:

(1) Board management and staff training.

(2) Technical assistance regarding startups, ongoing operations, membership development, and new initiatives.

(3) Advice regarding capitalization, marketing, merchandising, business, economic development, and financial management strategies.

(b) Serve as a catalyst between the Land Grant University, other higher education programs, and cooperative leaders in the development and support of education, research, and public outreach programs of direct benefit and interest to cooperatives and their members.

(c) Provide access to market development and changes through industry focused knowledge to the boards, officers, committees, management, and staffs of cooperatives.

(d) Strengthen the capacity of California's cooperatives to compete effectively and therefore, create employment opportunities for both the rural and urban population in California.

92693. It is the intent of the Legislature that the center support research, education, and extension activities that advance the body of knowledge concerning cooperatives in general and address the needs of California's agricultural and nonagricultural cooperatives such as:

(a) Support for teaching programs at the graduate and undergraduate levels.

(b) Support for research addressing economic, marketing, social, technology development, and other issues relating to cooperatives.

(c) Dissemination of information on existing programs, services, and publications available to cooperatives through federal, state, university, and public sector sources.

(d) Development and dissemination of education materials relating to cooperatives.

(e) Coordination of meetings, conferences, seminars, and related education programs for cooperative leaders, boards of directors, managers, members of cooperatives, and others.

(f) Encouragement of greater interest in cooperatives by the academic community through student involvement, internships, support of visiting scholars, and other means.

(g) Support strengthening the economic role of cooperatives in state, national, and international trade.

92694. (a) It is the intent of the Legislature that the President of the University of California, or his or her designee, appoint an advisory board to the center.

(b) It is further the intent of the Legislature that:

(1) The advisory board be composed of a majority of individuals who are members of agricultural or nonagricultural cooperatives, with the two sectors being equally represented, as well as, composed of individuals representing institutions of higher education, government, and the general public who are knowledgeable about cooperatives.

(2) The duties of the advisory board include recommending goals, objectives, and priorities for the center and reviewing center activities.

(3) To the extent practicable, the advisory board recommend, and the center strive to undertake, a balanced program of activities that are directly beneficial to agricultural and nonagricultural cooperatives, and representative of the diversity of both cooperative sectors.

(4) The advisory board consider the relative economic impact of cooperatives in California and the service to the public in making its recommendations.

(5) The members of the advisory board serve without compensation, but shall be reimbursed for all necessary expenses incurred in the performance of their duties in accordance with applicable regulations and guidelines of the University of California.

92695. It is the intent of the Legislature, and subject to the availability of funds, that qualified institutions, organizations, and individuals, as determined by the president, or his or her designee, in consultation with the advisory board, be eligible to participate in a competitive grant program to assist in carrying out Sections 92692 and 92693.

92696. It is further the intent of the Legislature that the California Center for Cooperatives be funded by a variety of sources which may include, but not be limited to, the following:

(1) Funds derived from special fund accounts.

(2) Public and private funds secured through cooperative research agreements from entities such as the Agricultural Cooperative Service of the United States Department of Agriculture.

(3) Funds currently available to the university which are directed in the interest of cooperatives.

(4) Legislative appropriations to enhance the awareness and involvement of various minorities in cooperative business enterprises.

(5) Income from courses, seminars, publications, and contractual services.

(6) Contributions from cooperatives and other associated business organizations.

(7) Grants received from private foundations, government agencies, and other public or private sources.

92697. It is the intent of the Legislature that the California Center for Cooperatives be established and in operation on or before July 1, 1989. The University of California is requested to submit to the Legislature by March 15, 1990, a progress report addressing the level of General Fund moneys necessary to operate the center, and describing the steps taken toward establishing and operating the center and, on or before January 1, 1995, a final report evaluating the effectiveness of the center in meeting legislative intent as expressed in this act.

92698. No provision of this chapter shall apply to the University of California unless the Regents of the University of California, by resolution, makes that provision applicable.

SEC. 2. The sum of two hundred forty thousand dollars ($240,000) is hereby appropriated from the General Fund to the University of California for allocation to the California Center for Cooperatives for expenditure to accomplish the purposes of this act.

CHAPTER 1199

An act to add and repeal Chapter 6.5 (commencing with Section 9500) of Part 1 of Division 8.5 of the Welfare and Institutions Code, relating to senior services, and making an appropriation therefor.

[Approved by Governor September 25, 1987 Filed with Secretary of State September 26, 1987.]

I am deleting the appropriations contained in proposed Welfare and Institutions Code Section 9512 (a) and (b) contained in Assembly Bill No 1772.

This bill would require the Department of Aging to establish a three year pilot volunteer service credit program in which individuals may volunteer their services in exchange for service credits which may be exchanged for services when needed. It also appropriates $240,000 General Fund to establish four pilot projects.

The demands placed on budget resources require all of us to set priorities. The budget enacted in July, 1987 appropriated nearly $41 billion in state funds This amount is more than adequate to provide the necessary essential services provided for by State Government. It is not necessary to put additional pressure on taxpayer funds for programs that fall beyond the priorities currently provided.

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties

I would, however, consider funding the provisions of this bill during the budget process for Fiscal Year 1988–89. It is appropriate to review the relative merits of this program in comparison to all other funding projects The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit.

With this deletion, I approve Assembly Bill No 1772

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. This act shall be known and may be cited as the Marks-Mello-Vasconcellos Service Credit Act.

SEC. 1.5. The Legislature finds and declares:

(a) California is a special place, and has long been, in fact and by reputation, a leading state in innovating and developing new ways for addressing our problems and realizing our dreams and our potentials. It is the state watched always and emulated often by the other 49 states, and even by other nations and the entire world.

(b) The California pioneering spirit encourages us to continue in our tradition of being the frontier.

(c) We have enormous and widespread unmet human needs in our state today.

(d) California faces a critical period of limited public resources available for meeting these human needs.

(e) There is an equally enormous untapped wealth in our senior citizens, Californians whose experience, talents, and free time uniquely equip them to provide a valuable, even crucial social infrastructure not otherwise affordable today by our federal, state, and local governments.

(f) Our senior citizens, given their free time, energy, wisdom, experience, and skills are particularly capable of providing volunteer social services to other needing Californians, especially the frail

elderly, children and persons with disabilities, and other Californians at risk of institutionalization.

SEC. 2. The Legislature also finds and declares:

(a) The senior population of California is expanding, and will represent an increasing proportion of the total number of Californians. By the year 2000 more than one in five Californians will be over the age of 55, with 28 percent of this group being more than 75 years old.

(b) In a recent (1984) study by the American Association of Retired Persons, more than 70 percent of the elderly persons polled indicated a preference for staying in their homes as opposed to entering a residential care facility.

(c) More than 1,200,000 elderly Americans who would otherwise be unable to take care of themselves and live independently are today able to live at home because of the assistance of their families and friends.

(d) In light of these demographic trends, increased life expectancy, and severe medical budgetary limitations, the expansion of home and community-based services is one of the most pressing issues facing older Americans today.

SEC. 3. (a) There is a compelling public interest in enlisting all available resources, especially volunteer resources, to assure a satisfactory level of subsistence and services to the frail elderly, children, persons with disabilities, and others at risk of institutionalization.

(b) It is valuable to engender and encourage programs and services and activities which enable Californians to become and remain independent and self-sufficient through providing continuity of community-based in-home and other supportive services enabling seniors to remain in their communities and homes.

(c) It is cost-efficient as well to do so, thereby decreasing the state's financial burden for long-term institutionalization and health.

(d) Persons who are involved in meaningful and satisfying activities remain healthier and live longer, and are less likely to themselves require care.

(e) Our senior citizens deserve encouragement and opportunities to gain a greater sense of their own worth, involvement, meaning, recognition, and contribution to our state and to our fellow Californians.

(f) There is a strong interest in encouraging older Californians, morally and by other direct incentives, to personally assist their fellow Californians.

(g) Voluntary community assistance activities constitute an effective mechanism for providing integrity for the new federalism, whereby individuals in local communities provide the support which enables needy persons to get their needs met, and to become more self-sufficient.

(h) Nonprofit, community and other volunteer operations face obstacles in increasing such services, including decreasing numbers

of available volunteers, liability problems, out-of-pocket costs to volunteers, decreasing charitable contributions due to tax changes, difficulty in recruiting and retaining volunteers, and the lack of an established system to assure earned credits for volunteer efforts.

(i) It is in the state's interest to overcome these obstacles, and to create a climate in which there is greater participation of senior volunteers.

(j) A system whereby our senior citizens could contribute themselves and their talents in helping others and thereby earn credits to assure their own future well-being would improve their own dignity and sense of community and citizenship.

SEC. 4. (a) It is the intent of the Legislature, therefore, to create a statewide program for the utilization of the experience, talent, and time of our senior citizens in building community and meeting unmet human needs, beginning with senior needs, and thereafter to utilize the results of these pilots to investigate the feasibility of expanding the services credit concept to other populations in need.

(b) It is further the intent of the Legislature to assist in the development of local programs that simultaneously promote the following goals:

(1) To encourage our senior citizens who are willing and able to do so to participate in volunteer programs which use their time, talents, skills, experience, wisdom, and caring in providing assistance to eligible persons in need, especially the frail elderly, and other seniors at risk of institutionalization.

(2) To allow these volunteer participants to earn credit for their time so invested in an earned credit system which they may draw upon later in time of their own increasing needs.

(c) It is further the intent of the Legislature to establish a statewide senior partners service credit program by the year 2000 based on the evaluation presented to the Legislature by the Legislative Analyst pursuant to this act.

(d) It is the intent of the Legislature that the senior partners service credit program supplement and not supplant existing public and private services, building upon existing volunteer service agencies and organizations to enhance their effectiveness and individual service goals.

(e) It is the intent of the Legislature that the senior partners service credit program:

(1) Include a system for volunteer recruitment, screening, training, and oversight supervision.

(2) Be designed through a consultative process with seniors and volunteer organizations.

(3) Build upon analagous and existing programs utilizing the concept of earned credits.

(4) Be essentially decentralized and community specific, allowing latitude for experimentation, innovation, pilots, and various models appropriate to diverse communities, demographics, economics, ethnicity, and existing infrastructures in each participating

community.

(5) Utilize extensively the models developed in other states, especially Florida, Missouri, Washington, D.C., and Michigan, calling upon research, accountability, and evaluation studies of each program.

(6) Encourage local participation in matching funds, program design, and goal setting.

(7) Remain free from excessive regulation, criteria, and procedural obstacles except in the assurance of the health and safety of participants and recipients.

(8) Include ongoing program evaluation by the Department of Aging and the Legislative Analyst as to the successful implementation of these goals.

(9) Require liability insurance to protect the volunteer and recipient against injury and property damage; and provisions which would hold the state not liable for damages resulting from such injuries or property loss, nor for earned credits.

(10) Allow for the transference of earned credits to eligible persons.

(11) Permit local area agency on aging service areas the flexibility they need to tailor programs toward the specific needs of their community, including, but not limited to, respite, homemaker, personal care, day care, chore, home health aide, home delivered meals, transportation, and physical, occupational, and speech therapies.

(12) Require every program to survey service recipients on their judgment about the type and quality of care provided to them.

(13) Include a computerized data management system containing volunteer demographic information, services performed, availability of volunteers, and an accounting system to keep track of credits earned, used, and transferred.

(14) Include specific provisions which exempt the state for liability for credits earned.

(15) Require periodic evaluations and program reviews by the Department of Aging and the Legislative Analyst.

(16) Not result in the decrease of any existing public services, nor supplant current levels of public support to public, private, or nonprofit service programs, nor result in the destabilization of existing volunteer programs; and that the senior partners service credit program serve to increase volunteer participation overall, and within existing volunteer programs.

SEC. 5. Chapter 6.5 (commencing with Section 9500) is added to Part 1 of Division 8.5 of the Welfare and Institutions Code, to read:

CHAPTER 6.5. SENIOR PARTNERS SERVICE CREDIT PROGRAM

9500. As used in this chapter:

(a) "Eligible person" means an individual who is 60 years of age or older.

(b) "Service credit" means the unit of exchange upon which the volunteer service credit program operates. There shall be no monetary value attached to the service credit.

(c) "Sponsor" means a nonprofit organization or a consortium of nonprofit organizations that receives and dispenses service credits on behalf of eligible persons and is designated by the department to perform the administrative tasks necessary to implement this chapter.

(d) "Targeted service" means a task for which service credits may be earned when performed by a program volunteer for an eligible person.

(e) "Program volunteer" means an individual 60 years of age or older who earns credits by providing targeted services to an eligible person not related to him or her by blood, marriage, guardianship, or adoption.

(f) "Department" means the Department of Aging.

(g) "Program" means a senior partner service credit program funded entirely or in part by an appropriation under this chapter.

9501. (a) Within eight months after the effective date of this section, the department shall establish a three-year pilot service credit program, in at least four program sites, through which individuals may volunteer targeted services and in return earn service credits that may be subsequently exchanged for targeted services. To implement the program, the department shall develop a process for notifying potential sponsors of the availability of program grants, then awarding grants to those sponsors that best meet the objectives set forth in this chapter. At least one program shall be in a rural area.

(b) (1) The department shall ensure that each sponsor maintains a register containing all of the following:

(A) The names of participating volunteers, services for which they are available, and any other personal information relevant to the program.

(B) An accounting system with the capacity to make available to the department, each volunteer, and to the sponsor a monthly balance of service credits earned and used.

(C) Any other data that may be needed to monitor and administer the program.

(2) Any sponsor that chooses to computerize its register shall first consult with the department to ensure that the intended computer hardware and software are compatible with the department's information needs and with existing or planned computerized registries used by other programs. The sponsor shall also consult with the Legislative Analyst to ensure that the information to be gathered is consistent with the information needed for the evaluation described in Section 9510.

(3) The register required by this subdivision shall be used solely to match volunteers with eligible persons and to accomplish other tasks consistent with the purposes of this chapter.

(c) The department shall require that any grantee of funds awarded pursuant to this chapter shall provide matching funds or in-kind services of equal value, or a combination of both.

9502. Targeted services shall consist of those tasks that the department has determined will foster the independence, self-sufficiency, and noninstitutionalized living of eligible persons by providing services directly to these people or respite care to their caregivers. No program volunteer shall perform services required by law to be performed by a licensed professional, unless that volunteer holds a current, valid license to perform that service. Targeted services shall be defined to fall within the following categories:

(a) Personal care tasks performed in the home of an eligible person, such as personal grooming and meal preparation.

(b) Tasks such as light housekeeping, cleaning, or minor repairs performed in or around the home of an eligible person.

(c) Those tasks, such as transportation and escort services, that enhance the ability of an eligible person to function outside the home.

9503. (a) To initiate the program, the department shall establish a pool of service credits to be distributed to sponsors, who shall in turn be authorized to award them as they determine most appropriate. Each sponsor's awarding of credits to eligible persons shall be commensurate with the availability of volunteers in that particular program.

(b) Volunteers who provide targeted services shall earn one service credit for each hour of targeted services provided.

(c) A volunteer who has service credits may transfer all or part of those credits, either directly or through a sponsor, to an eligible person in the same program. Credits thus transferred may not be retransferred.

(d) A volunteer with accrued service credits may transfer all or part of those credits to the sponsor for the purpose of replenishing the pool of service credits established under subdivision (a).

(e) Except as otherwise provided by Section 9503 or the rules issued by the department under Section 9508, an eligible person may exchange service credits that he or she has earned, received by transfer, or been awarded for an equal number of hours of any targeted service. The sponsor shall determine whether a requested service is a targeted service and whether the requester is an eligible person.

9504. (a) Before entering the program, every program volunteer and every eligible person requesting targeted services from the program, shall read and sign a clearly written information sheet. This sheet shall include a notice that the program is part of a demonstration project that carries no guarantees of credits earned by program volunteers.

(b) To ensure that outstanding service credits can be honored when exchanged for targeted services, each sponsor shall engage in diligent volunteer recruitment.

(c) If the statewide program expires or is terminated, the department shall promptly give written notice to all sponsors and to all persons known to have outstanding credits from the pool of service credits established under subdivision (a) of Section 9503. In the event any sponsor expects its program to end, the sponsor shall promptly give written notice of the program's expiration or termination to all other persons known to have outstanding credits.

9505. (a) Each sponsor shall have an advisory committee that includes all of the following:

(1) Persons skilled in the provision of targeted services.

(2) Persons who represent or advocate the interests of eligible persons.

(3) Persons representing the interests of program volunteers. The advisory committee shall monitor the sponsor's compliance with program requirements, make recommendations to the sponsor on program implementation, and carry out any other program-related tasks that the department deems appropriate.

(b) Members of the advisory committee serve in an informal capacity, and assume no legal responsibility for program actions or decisions.

9506. (a) Volunteers shall not, by virtue of their participation in the program or a demonstration project, be considered for any purpose to be employees or agents of either the department or a sponsor, or be entitled to any monetary compensation for their services. Service credit hours to be claimed are contingent upon the availability of volunteer hours during the course of the pilot program, and in no case shall cause any liability, monetary or otherwise, to accrue to the local program, the department, or the state.

(b) Notwithstanding subdivision (a), sponsors may reimburse volunteers for necessary expenses directly related to their provision of targeted services.

9507. (a) If a volunteer completes a department-approved training program, no cause of action shall arise against a volunteer participating in a program pursuant to this chapter except in instances of gross negligence or intentional conduct.

(b) No cause of action shall arise against the state as a result of any negligent or intentional act or omission of a sponsor or volunteer in the implementation of a program pursuant to this chapter.

9508. The department shall, by September 1, 1988, develop guidelines necessary to carry out the purposes of this chapter. These guidelines shall include, but need not be limited to, standards and procedures with respect to the following:

(a) Volunteer qualifications, screening, preservice and in-service training, monitoring, and termination.

(b) Minimum liability and accident insurance for volunteers.

(c) Sponsor qualifications.

(d) The amount of funds and other resources that a potential program sponsor shall provide as an equal match to state funds. The match requirement may be met by cash or in-kind contributions, or

a combination thereof.

(e) The awarding of service credits.

(f) Weekly and annual limits on the number of service credits a volunteer may earn.

(g) Contingency planning and volunteer reserves.

(h) Program evaluation and the responsibilities of sponsor advisory committees.

9509. The department shall prepare and submit to the Legislature annual reports on the program established by this chapter. These reports shall, at a minimum, include all of the following information on each program:

(a) A description of the participating population, including the number of persons served and the services provided.

(b) The number of service credits outstanding at the conclusion of the reporting period.

(c) Program costs.

9510. (a) The Legislative Analyst shall report to the Legislature on or before January 1, 1990, on the net impact of the Senior Partners Service Credit Program, including, but not limited to, the following evaluative criteria:

(1) The increase in volunteer hours provided as a result of the program.

(2) The increase in the number of individuals served as a result of the program.

(3) The expansion of availability of targeted services by level, type, and recipient as a result of the program.

(4) The total costs of the program, including state grants and sponsor matching contributions.

(5) Estimated direct and indirect cost savings, to the extent information is available, resulting from both of the following:

(A) The provision of services through the program that would otherwise have been provided through the use of other state or local government funds.

(B) The avoidance or postponement of the need for more costly long-term care services for service recipients.

(6) Any other criteria that seem relevant to evaluating the overall impact of the program, including, but not limited to, the impact on volunteer programs in the community, the quality of life of program volunteers and service recipients, benefits to the families and communities of the volunteers and benefits to the families and communities of the service recipients.

(b) The Legislative Analyst shall also investigate the feasibility of expanding the service credit concept to serve other geographical areas or populations in existing service areas, and shall include the results of that investigation in the report required by subdivision (a).

(c) The following outcome measures by the end of the pilot shall constitute criteria for success:

(1) A significant increase in volunteer hours per program on average.

(2) A significant increase in the number of recipients per program on average.

(3) An increase in the type of service provided by the contracting agency.

9511. This chapter shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

9512. (a) There is hereby appropriated the sum of two hundred forty thousand dollars ($240,000) from the General Fund to the Department of Aging for the purpose of implementing this chapter, of which amount the department may use not more than forty thousand dollars ($40,000) for administrative costs. If the department does not award the full appropriation in the first year of the program, the funds available for the second year of this chapter shall be increased by the amount not awarded the previous year.

(b) It is the intent of the Legislature to provide additional funding of this chapter, in a like amount as that appropriated in subdivision (a), for implementation of this chapter, through the Budget Act for the 1988–89 and 1989–90 fiscal years.

CHAPTER 1200

An act to amend Section 338 of, and to add Section 426.80 to, the Code of Civil Procedure, relating to liability.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987]

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

SECTION 1. Section 338 of the Code of Civil Procedure is amended to read:

338. Within three years:

1. An action upon a liability created by statute, other than a penalty or forfeiture.

2. An action for trespass upon or injury to real property.

3. An action for taking, detaining, or injuring any goods or chattels, including actions for the specific recovery of personal property. The cause of action in the case of theft, as defined in Section 484 of the Penal Code, of any art or artifact is not deemed to have accrued until the discovery of the whereabouts of the art or artifact by the aggrieved party, his or her agent, or the law enforcement agency which originally investigated the theft.

4. An action for relief on the ground of fraud or mistake. The cause of action in that case is not to be deemed to have accrued until the discovery, by the aggrieved party, of the facts constituting the fraud or mistake.

5. An action upon a bond of a public official except any cause of

action based on fraud or embezzlement is not to be deemed to have accrued until the discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action upon the bond.

6. An action against a notary public on his or her bond or in his or her official capacity except that any cause of action based on malfeasance or misfeasance is not deemed to have accrued until discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action; provided, that any action based on malfeasance or misfeasance shall be commenced within one year from discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action or within three years from the performance of the notarial act giving rise to the action, whichever is later; and provided further, that any action against a notary public on his or her bond or in his or her official capacity shall be commenced within six years.

7. An action for slander of title to real property.

8. An action commenced under Section 17536 of the Business and Professions Code. The cause of action in that case shall not be deemed to have accrued until the discovery by the aggrieved party, the Attorney General, the district attorney, the county counsel, the city prosecutor, or the city attorney of the facts constituting grounds for commencing such an action.

9. An action commenced under the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) or the provisions of California law relating to hazardous waste control (Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code). The cause of action in that case shall not be deemed to have accrued until the discovery by the State Department of Health Services, the State Water Resources Control Board, or a regional water quality control board of the facts constituting grounds for commencing actions under their jurisdiction.

10. An action to recover for physical damage to private property under Section 19 of Article I of the California Constitution.

SEC. 2. Section 426.80 is added to the Code of Civil Procedure, to read:

426.80. In any inverse condemnation proceeding brought pursuant to Section 19 of Article I of the California Constitution to recover for physical damage to private real property resulting from fire, flood, earth or snow movement, or similar occurrences, the public entity may seek comparative indemnity by way of cross-action against the plaintiff if either of the following is applicable:

(a) The plaintiff engaged in active negligent conduct which was a substantial cause of the property damage.

(b) The plaintiff had actual notice of the risk of property damage and a reasonable opportunity to take action to reduce that risk, but negligently failed to do so, and the plaintiff's negligent failure to act was a substantial cause of the property damage.

In no event shall the amount recovered by the public entity in its

cross-action for comparative indemnity exceed the proportional share of the judgment against the public entity attributable to the plaintiff's degree of fault. In no event shall this section be construed to diminish any existing rights or remedies possessed by the public entity.

SEC. 3. This act applies only to causes of action that arise on or after January 1, 1988.

SEC. 4. This act shall become operative only if Assembly Bills 344, 1530, 1909, 1912, and 2616, and Senate Bills 23, 1526, and 1598 are all enacted and become effective on or before January 1, 1988.

CHAPTER 1201

An act to amend Sections 338, 877.5, and 1141.11 of, and to repeal Section 426.80 of, the Code of Civil Procedure, to amend Sections 204, 309, and 317 of, and to add Sections 204.5, 5239, 7231.5, and 9247 to, the Corporations Code, to repeal and add Section 669.1 of the Evidence Code, to amend Sections 811.6, 910, 911.2, 911.3, 911.4, 911.6, and 946.6 of, to add Sections 820.9 and 831.21 to, and to add Chapter 6 (commencing with Section 962) to Part 4 of, and to add Chapter 3.7 (commencing with Section 984) and Chapter 4 (commencing with Section 985) to Part 5 of, Division 3.6 of Title 1, of the Government Code, and to add Section 17004.7 to the Vehicle Code, relating to liability.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987]

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

SECTION 1. Section 338 of the Code of Civil Procedure is amended to read:

338. Within three years:

1. An action upon a liability created by statute, other than a penalty or forfeiture.

2. An action for trespass upon or injury to real property.

3. An action for taking, detaining, or injuring any goods or chattels, including actions for the specific recovery of personal property. The cause of action in the case of theft, as defined in Section 484 of the Penal Code, of any art or artifact is not deemed to have accrued until the discovery of the whereabouts of the art or artifact by the aggrieved party, his or her agent, or the law enforcement agency which originally investigated the theft.

4. An action for relief on the ground of fraud or mistake. The cause of action in that case is not to be deemed to have accrued until the discovery, by the aggrieved party, of the facts constituting the fraud or mistake.

5. An action upon a bond of a public official except any cause of

action based on fraud or embezzlement is not to be deemed to have accrued until the discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action upon the bond.

6. An action against a notary public on his or her bond or in his or her official capacity except that any cause of action based on malfeasance or misfeasance is not deemed to have accrued until discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action; provided, that any action based on malfeasance or misfeasance shall be commenced within one year from discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action or within three years from the performance of the notarial act giving rise to the action, whichever is later; and provided further, that any action against a notary public on his or her bond or in his or her official capacity shall be commenced within six years.

7. An action for slander of title to real property.

8. An action commenced under Section 17536 of the Business and Professions Code. The cause of action in that case shall not be deemed to have accrued until the discovery by the aggrieved party, the Attorney General, the district attorney, the county counsel, the city prosecutor, or the city attorney of the facts constituting grounds for commencing such an action.

9. An action commenced under the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) or the provisions of California law relating to hazardous waste control (Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code). The cause of action in that case shall not be deemed to have accrued until the discovery by the State Department of Health Services, the State Water Resources Control Board, or a regional water quality control board of the facts constituting grounds for commencing actions under their jurisdiction.

10. An action to recover for physical damage to private property under Section 19 of Article I of the California Constitution.

SEC. 2. Section 426.80 of the Code of Civil Procedure, as added by Senate Bill 1382 of the 1987–88 Regular Session, is repealed.

SEC. 3. Section 877.5 of the Code of Civil Procedure is amended to read:

877.5. (a) Where an agreement or covenant is made which provides for a sliding scale recovery agreement between one or more, but not all, alleged defendant tortfeasors and the plaintiff or plaintiffs:

(1) The parties entering into any such agreement or covenant shall promptly inform the court in which the action is pending of the existence of the agreement or covenant and its terms and provisions; and

(2) If the action is tried before a jury, and a defendant party to the agreement is called as a witness at trial, the court shall, upon motion of a party, disclose to the jury the existence and content of the

agreement or covenant, unless the court finds that such disclosure will create substantial danger of undue prejudice, of confusing the issues, or of misleading the jury.

The jury disclosure herein required shall be no more than necessary to inform the jury of the possibility that the agreement may bias the testimony of the witness.

(b) As used in this section, a "sliding scale recovery agreement" means an agreement or covenant between a plaintiff or plaintiffs and one or more, but not all, alleged tortfeasor defendants, which limits the liability of the agreeing tortfeasor defendants to an amount which is dependent upon the amount of recovery which the plaintiff is able to recover from the nonagreeing defendant or defendants. This includes, but is not limited to, agreements within the scope of Section 877, and agreements in the form of a loan from the agreeing tortfeasor defendant or defendants to the plaintiff or plaintiffs which is repayable in whole or in part from the recovery against the nonagreeing tortfeasor defendant or defendants.

(c) No sliding scale recovery agreement is effective unless a notice of intent to enter into an agreement has been served on all nonsignatory alleged defendant tortfeasors.

SEC. 4. 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 fifty thousand dollars ($50,000) 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 fifty thousand dollars ($50,000) for each plaintiff, which decision shall not be appealable.

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

(d) The provisions of this chapter shall not apply to those actions filed in a superior or municipal court which has been selected pursuant to Section 1823.1 and is participating in a pilot project pursuant to Title 1 (commencing with Section 1823) of Part 3.5;

provided, however, that any superior or municipal court may provide by local rule that the provisions of this chapter shall apply to actions pending on or filed after July 1, 1979. Any action filed in such court after the conclusion of the pilot project shall be subject to the provisions of this chapter.

(e) No local rule of a superior court providing for judicial arbitration may dispense with the conference required pursuant to Section 1141.16.

SEC. 5. Section 204 of the Corporations Code is amended to read:

204. The articles of incorporation may set forth:

(a) Any or all of the following provisions, which shall not be effective unless expressly provided in the articles:

(1) Granting, with or without limitations, the power to levy assessments upon the shares or any class of shares.

(2) Granting to shareholders preemptive rights to subscribe to any or all issues of shares or securities.

(3) Special qualifications of persons who may be shareholders.

(4) A provision limiting the duration of the corporation's existence to a specified date.

(5) A provision requiring, for any or all corporate actions (except as provided in Section 303, subdivision (b) of Section 402.5, subdivision (c) of Section 708 and Section 1900) the vote of a larger proportion or of all of the shares of any class or series, or the vote or quorum for taking action of a larger proportion or of all of the directors, than is otherwise required by this division.

(6) A provision limiting or restricting the business in which the corporation may engage or the powers which the corporation may exercise or both.

(7) A provision conferring upon the holders of any evidences of indebtedness, issued or to be issued by the corporation, the right to vote in the election of directors and on any other matters on which shareholders may vote.

(8) A provision conferring upon shareholders the right to determine the consideration for which shares shall be issued.

(9) A provision requiring the approval of the shareholders (Section 153) or the approval of the outstanding shares (Section 152) for any corporate action, even though not otherwise required by this division.

(10) Provisions eliminating or limiting the personal liability of a director for monetary damages in an action brought by or in the right of the corporation for breach of a director's duties to the corporation and its shareholders, as set forth in Section 309, provided, however, that (A) such a provision may not eliminate or limit the liability of directors (i) for acts or omissions that involve intentional misconduct or a knowing and culpable violation of law, (ii) for acts or omissions that a director believes to be contrary to the best interests of the corporation or its shareholders or that involve the absence of good faith on the part of the director, (iii) for any transaction from which a director derived an improper personal benefit, (iv) for acts or

omissions that show a reckless disregard for the director's duty to the corporation or its shareholders in circumstances in which the director was aware, or should have been aware, in the ordinary course of performing a director's duties, of a risk of serious injury to the corporation or its shareholders, (v) for acts or omissions that constitute an unexcused pattern of inattention that amounts to an abdication of the director's duty to the corporation or its shareholders, (vi) under Section 310, or (vii) under Section 316, (B) no such provision shall eliminate or limit the liability of a director for any act or omission occurring prior to the date when the provision becomes effective, and (C) no such provision shall eliminate or limit the liability of an officer for any act or omission as an officer, notwithstanding that the officer is also a director or that his or her actions, if negligent or improper, have been ratified by the directors.

(11) A provision authorizing, whether by bylaw, agreement, or otherwise, the indemnification of agents (as defined in Section 317) in excess of that expressly permitted by Section 317 for those agents of the corporation for breach of duty to the corporation and its stockholders, provided, however, that the provision may not provide for indemnification of any agent for any acts or omissions or transactions from which a director may not be relieved of liability as set forth in the exception to paragraph (10) or as to circumstances in which indemnity is expressly prohibited by Section 317.

Notwithstanding this subdivision, in the case of a close corporation any of the provisions referred to above may be validly included in a shareholders' agreement. Notwithstanding this subdivision, bylaws may require for all or any actions by the board the affirmative vote of a majority of the authorized number of directors. Nothing contained in this subdivision shall affect the enforceability, as between the parties thereto, of any lawful agreement not otherwise contrary to public policy.

(b) Reasonable restrictions upon the right to transfer or hypothecate shares of any class or classes or series, but no restriction shall be binding with respect to shares issued prior to the adoption of the restriction unless the holders of such shares voted in favor of the restriction.

(c) The names and addresses of the persons appointed to act as initial directors.

(d) Any other provision, not in conflict with law, for the management of the business and for the conduct of the affairs of the corporation, including any provision which is required or permitted by this division to be stated in the bylaws.

SEC. 6. Section 204.5 is added to the Corporations Code, to read:

204.5. (a) If the articles of a corporation include a provision reading substantially as follows: "The liability of the directors of the corporation for monetary damages shall be eliminated to the fullest extent permissible under California law"; the corporation shall be considered to have adopted a provision as authorized by paragraph (10) of subdivision (a) of Section 204 and more specific wording shall

not be required.

(b) This section shall not be construed as setting forth the exclusive method of adopting an article provision as authorized by paragraph (10) of subdivision (a) of Section 204.

(c) This section shall not change the otherwise applicable standards or duties to make full and fair disclosure to shareholders when approval of such a provision is sought.

SEC. 7. Section 309 of the Corporations Code is amended to read:

309. (a) A director shall perform the duties of a director, including duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such director believes to be in the best interests of the corporation and its shareholders and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

(b) In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

(1) One or more officers or employees of the corporation whom the director believes to be reliable and competent in the matters presented.

(2) Counsel, independent accountants or other persons as to matters which the director believes to be within such person's professional or expert competence.

(3) A committee of the board upon which the director does not serve, as to matters within its designated authority, which committee the director believes to merit confidence,

so long as, in any such case, the director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

(c) A person who performs the duties of a director in accordance with subdivisions (a) and (b) shall have no liability based upon any alleged failure to discharge the person's obligations as a director. In addition, the liability of a director for monetary damages may be eliminated or limited in a corporation's articles to the extent provided in paragraph (10) of subdivision (a) of Section 204.

SEC. 8. Section 317 of the Corporations Code is amended to read:

317. (a) For the purposes of this section, "agent" means any person who is or was a director, officer, employee or other agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation; "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal,

administrative or investigative; and "expenses" includes without limitation attorneys' fees and any expenses of establishing a right to indemnification under subdivision (d) or paragraph (3) of subdivision (e).

(b) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the corporation to procure a judgment in its favor) by reason of the fact that such person is or was an agent of the corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of the corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

(c) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action by or in the right of the corporation to procure a judgment in its favor by reason of the fact that such person is or was an agent of the corporation, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the best interests of the corporation and its shareholders.

No indemnification shall be made under this subdivision for any of the following:

(1) In respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation in the performance of such person's duty to the corporation and its shareholders, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for expenses and then only to the extent that the court shall determine.

(2) Of amounts paid in settling or otherwise disposing of a pending action without court approval.

(3) Of expenses incurred in defending a pending action which is settled or otherwise disposed of without court approval.

(d) To the extent that an agent of a corporation has been successful on the merits in defense of any proceeding referred to in subdivision (b) or (c) or in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

(e) Except as provided in subdivision (d), any indemnification under this section shall be made by the corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in subdivision (b) or (c), by any of the following:

(1) A majority vote of a quorum consisting of directors who are not parties to such proceeding.

(2) If such a quorum of directors is not obtainable, by independent legal counsel in a written opinion.

(3) Approval of the shareholders (Section 153), with the shares owned by the person to be indemnified not being entitled to vote thereon.

(4) The court in which such proceeding is or was pending upon application made by the corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney or other person is opposed by the corporation.

(f) Expenses incurred in defending any proceeding may be advanced by the corporation prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount if it shall be determined ultimately that the agent is not entitled to be indemnified as authorized in this section.

(g) The indemnification provided by this section shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of shareholders, or disinterested directors or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office, to the extent such additional rights to indemnification are authorized in the articles of the corporation. The rights to indemnity hereunder shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of the person. Nothing contained in this section shall affect any right to indemnification to which persons other than such directors and officers may be entitled by contract or otherwise.

(h) No indemnification or advance shall be made under this section, except as provided in subdivision (d) or paragraph (3) of subdivision (e), in any circumstance where it appears:

(1) That it would be inconsistent with a provision of the articles, bylaws, a resolution of the shareholders or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification.

(2) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

(i) A corporation shall have power to purchase and maintain insurance on behalf of any agent of the corporation against any

liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the corporation would have the power to indemnify the agent against such liability under the provisions of this section. The fact that a corporation owns all or a portion of the shares of the company issuing a policy of insurance shall not render this subdivision inapplicable if either of the following conditions are satisfied: (1) if authorized in the articles of the corporation, any policy issued is limited to the extent provided by subdivision (d) of Section 204; or (2) (A) the company issuing the insurance policy is organized, licensed, and operated in a manner that complies with the insurance laws and regulations applicable to its jurisdiction of organization, (B) the company issuing the policy provides procedures for processing claims that do not permit that company to be subject to the direct control of the corporation that purchased that policy, and (C) the policy issued provides for some manner of risk sharing between the issuer and purchaser of the policy, on one hand, and some unaffiliated person or persons, on the other, such as by providing for more than one unaffiliated owner of the company issuing the policy or by providing that a portion of the coverage furnished will be obtained from some unaffiliated insurer or reinsurer.

(j) This section does not apply to any proceeding against any trustee, investment manager or other fiduciary of an employee benefit plan in such person's capacity as such, even though such person may also be an agent as defined in subdivision (a) of the employer corporation. A corporation shall have power to indemnify such a trustee, investment manager or other fiduciary to the extent permitted by subdivision (f) of Section 207.

SEC. 9. Section 5239 is added to the Corporations Code, to read:

5239. (a) There shall be no personal liability to a third party for monetary damages on the part of a volunteer director or volunteer executive committee officer of a nonprofit corporation incorporated pursuant to this part, caused by the director's or officer's negligent act or omission in the performance of that person's duties as a director or officer, if all of the following conditions are met:

(1) The act or omission was within the scope of the director's or executive committee officer's duties.

(2) The act or omission was performed in good faith.

(3) The act or omission was not reckless, wanton, intentional, or grossly negligent.

(4) Damages caused by the act or omission are covered pursuant to a liability insurance policy issued to the corporation, either in the form of a general liability policy or a director's and officer's liability policy, or personally to the director or executive committee officer. In the event that the damages are not covered by a liability insurance policy, the volunteer director or volunteer executive committee officer shall not be personally liable for the damages if the board of directors of the corporation and the person had made all reasonable efforts in good faith to obtain available liability insurance.

(b) "Volunteer" means the rendering of services without compensation. "Compensation" means remuneration whether by way of salary, fee, or other consideration for services rendered. However, the payment of per diem, mileage, or other reimbursement expenses to a director or executive committee officer does not affect that person's status as a volunteer within the meaning of this section.

(c) "Executive committee officer" means the president, vice president, secretary, or treasurer of a corporation who assists in establishing the policy of the corporation.

(d) Nothing in this section shall limit the liability of the corporation for any damages caused by acts or omissions of the volunteer director or volunteer executive committee officer.

(e) This section does not eliminate or limit the liability of a director or officer for any of the following:

(1) As provided in Section 5233 or 5237.

(2) In any action or proceeding brought by the Attorney General.

(f) Nothing in this section creates a duty of care or basis of liability for damage or injury caused by the acts or omissions of a director or officer.

(g) This section is only applicable to causes of action based upon acts or omissions occurring on or after January 1, 1988.

SEC. 10. Section 7231.5 is added to the Corporations Code, to read:

7231.5. (a) Except as provided in Section 7233 or 7236, there is no monetary liability on the part of, and no cause of action for damages shall arise against, any volunteer director or volunteer executive committee officer of a nonprofit mutual benefit corporation based upon any alleged failure to discharge the person's duties as a director or officer if the duties are performed in a manner that meets all of the following criteria:

(1) The duties are performed in good faith.

(2) The duties are performed in a manner such director or officer believes to be in the best interests of the corporation.

(3) The duties are performed with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

(b) "Volunteer" means the rendering of services without compensation. "Compensation" means remuneration whether by way of salary, fee, or other consideration for services rendered. However, the payment of per diem, mileage, or other reimbursement expenses to a director or executive committee officer does not affect that person's status as a volunteer within the meaning of this section.

(c) "Executive committee officer" means the president, vice president, secretary, or treasurer of a corporation who assists in establishing the policy of the corporation.

(d) This section shall apply only to trade, professional, and labor organizations incorporated pursuant to this part which operate

exclusively for fraternal, educational, and other nonprofit purposes, and under the provisions of Section 501(c) of the United States Internal Revenue Code.

SEC. 11. Section 9247 is added to the Corporations Code, to read:

9247. (a) There shall be no personal liability for monetary damages to a third party on the part of a volunteer director or volunteer executive committee officer of a nonprofit corporation incorporated pursuant to this part, caused by the director's or officer's negligent act or omission in the performance of that person's duties as a director or officer, if all of the following conditions are met:

(1) The act or omission was within the scope of the director's or executive committee officer's duties.

(2) The act or omission was performed in good faith.

(3) The act or omission was not reckless, wanton, intentional, or grossly negligent.

(4) Damages caused by the act or omission are covered pursuant to a liability insurance policy issued to the corporation, either in the form of a general liability policy or a director's or officer's liability policy, or personally to the director or executive committee officer. In the event that the damages are not covered by a liability insurance policy, the volunteer director or volunteer executive committee officer shall not be personally liable for the damages if the board of directors of the corporation and the person had made all reasonable efforts in good faith to obtain available liability insurance.

(b) "Volunteer" means the rendering of services without compensation. "Compensation" means remuneration whether by way of salary, fee, or other consideration for services rendered. However, the payment of per diem, mileage, or other reimbursement expenses to a director or executive committee officer does not affect that person's status as a volunteer within the meaning of this section.

(c) "Executive committee officer" means the president, vice president, secretary, or treasurer of a corporation who assists in establishing the policy of the corporation.

(d) Nothing in this section shall limit the liability of the corporation for any damages caused by acts or omissions of the volunteer director or volunteer executive committee officer.

(e) This section does not eliminate or limit the liability of a director or officer for any of the following:

(1) As provided in Section 9243 or 9245.

(2) In any action or proceeding brought by the Attorney General.

(f) Nothing in this section creates a duty of care or basis of liability for damage or injury caused by the acts or omissions of a director or officer.

(g) This section is only applicable to causes of action based upon acts or omissions occurring on or after January 1, 1988.

SEC. 12. Section 669.1 of the Evidence Code is repealed.

SEC. 13. Section 669.1 is added to the Evidence Code, to read:

669.1. A rule, policy, manual, or guideline of state or local government setting forth standards of conduct or guidelines for its employees in the conduct of their public employment shall not be considered a statute, ordinance, or regulation of that public entity within the meaning of Section 669, unless the rule, manual, policy, or guideline has been formally adopted as a statute, as an ordinance of a local governmental entity in this state empowered to adopt ordinances, or as a regulation by an agency of the state pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code), or by an agency of the United States government pursuant to the federal Administrative Procedure Act (Chapter 5 (commencing with Section 5001) of Title 5 of the United States Code). This section affects only the presumption set forth in Section 669, and is not otherwise intended to affect the admissibility or inadmissibility of the rule, policy, manual, or guideline under other provisions of law. This section applies only to actions arising on or after January 1, 1988.

SEC. 14. Section 811.6 of the Government Code is amended to read:

811.6. "Regulation" means a rule, regulation, order or standard, having the force of law, adopted by an employee or agency of the United States pursuant to the federal Administrative Procedure Act (Chapter 5 (commencing with Section 5001) of Title 5 of the United States Code) or as a regulation by an agency of the state pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code).

This section applies only to actions arising on or after January 1, 1988.

SEC. 15. Section 820.9 is added to the Government Code, to read:

820.9. Members of city councils, mayors, members of boards of supervisors, members of school boards, members of governing boards of other local public entities, and members of locally appointed boards and commissions are not vicariously liable for injuries caused by the act or omission of the public entity. Nothing in this section exonerates an official from liability for injury caused by that individual's own wrongful conduct. Nothing in this section affects the immunity of any other public official.

SEC. 16. Section 831.21 is added to the Government Code, to read:

831.21. Public beaches shall be deemed to be in a natural condition and unimproved notwithstanding the provision or absence of public safety services such as lifeguards, police or sheriff patrols, medical services, fire protection services, beach cleanup services, or signs. The provisions of this section shall apply only to natural conditions of public property and shall not limit any liability or immunity that may otherwise exist pursuant to this division.

SEC. 17. Section 910 of the Government Code is amended to read:

910. A claim shall be presented by the claimant or by a person

acting on his or her behalf and shall show all of the following:

(a) The name and post office address of the claimant.

(b) The post office address to which the person presenting the claim desires notices to be sent.

(c) The date, place, and other circumstances of the occurrence or transaction which gave rise to the claim asserted.

(d) A general description of the indebtedness, obligation, injury, damage, or loss incurred so far as it may be known at the time of presentation of the claim.

(e) The name or names of the public employee or employees causing the injury, damage, or loss, if known.

(f) The amount claimed if it totals less than ten thousand dollars ($10,000) as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed. If the amount claimed exceeds ten thousand dollars ($10,000), no dollar amount shall be included in the claim. However, it shall indicate whether jurisdiction over the claim would rest in municipal or superior court.

SEC. 18. Section 911.2 of the Government Code is amended to read:

911.2. A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented as provided in Article 2 (commencing with Section 915) of this chapter not later than six months after the accrual of the cause of action. A claim relating to any other cause of action shall be presented as provided in Article 2 (commencing with Section 915) of this chapter not later than one year after the accrual of the cause of action.

SEC. 19. Section 911.3 of the Government Code is amended to read:

911.3. (a) When a claim that is required by Section 911.2 to be presented not later than six months after accrual of the cause of action is presented after such time without the application provided in Section 911.4, the board or other person designated by it may, at any time within 45 days after the claim is presented, give written notice to the person presenting the claim that the claim was not filed timely and that it is being returned without further action. The notice shall be in substantially the following form:

"The claim you presented to the (insert title of board or officer) on (indicate date) is being returned because it was not presented within six months after the event or occurrence as required by law. See Sections 901 and 911.2 of the Government Code. Because the claim was not presented within the time allowed by law, no action was taken on the claim.

Your only recourse at this time is to apply without delay to (name of public entity) for leave to present a late claim. See Sections 911.4 to 912.2, inclusive, and Section 946.6 of the Government Code. Under

some circumstances, leave to present a late claim will be granted. See Section 911.6 of the Government Code.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately."

(b) Any defense as to the time limit for presenting a claim described in subdivision (a) is waived by failure to give the notice set forth in subdivision (a) within 45 days after the claim is presented, except that no notice need be given and no waiver shall result when the claim as presented fails to state either an address to which the person presenting the claim desires notices to be sent or an address of the claimant.

SEC. 20. Section 911.4 of the Government Code is amended to read:

911.4. (a) When a claim that is required by Section 911.2 to be presented not later than six months after the accrual of the cause of action is not presented within such time, a written application may be made to the public entity for leave to present such claim.

(b) The application shall be presented to the public entity as provided in Article 2 (commencing with Section 915) of this chapter within a reasonable time not to exceed one year after the accrual of the cause of action and shall state the reason for the delay in presenting the claim. The proposed claim shall be attached to the application. In computing the one-year period under this subdivision, time during which the person who sustained the alleged injury, damage, or loss is a minor shall be counted, but the time during which he is mentally incapacitated and does not have a guardian or a conservator of his or her person shall not be counted.

SEC. 21. Section 911.6 of the Government Code is amended to read:

911.6. (a) The board shall grant or deny the application within 45 days after it is presented to the board. The claimant and the board may extend the period within which the board is required to act on the application by written agreement made before the expiration of the period.

(b) The board shall grant the application where one or more of the following is applicable:

(1) The failure to present the claim was through mistake, inadvertence, surprise, or excusable neglect and the public entity was not prejudiced in its defense of the claim by the failure to present the claim within the time specified in Section 911.2.

(2) The person who sustained the alleged injury, damage, or loss was a minor during all of the time specified in Section 911.2 for the presentation of the claim.

(3) The person who sustained the alleged injury, damage, or loss was physically or mentally incapacitated during all of the time specified in Section 911.2 for the presentation of the claim and by reason of such disability failed to present a claim during such time.

(4) The person who sustained the alleged injury, damage or loss

died before the expiration of the time specified in Section 911.2 for the presentation of the claim.

(c) If the board fails or refuses to act on an application within the time prescribed by this section, the application shall be deemed to have been denied on the 45th day or, if the period within which the board is required to act is extended by agreement pursuant to this section, the last day of the period specified in the agreement.

SEC. 22. Section 946.6 of the Government Code is amended to read:

946.6. (a) Where an application for leave to present a claim is denied or deemed to be denied pursuant to Section 911.6, a petition may be made to the court for an order relieving the petitioner from the provisions of Section 945.4. The proper court for filing the petition is a court which would be a competent court for the trial of an action on the cause of action to which the claim relates and which is located in a county or judicial district which would be a proper place for the trial of such action, and if the petition is filed in a court which is not a proper court for the determination of the matter, the court, on motion of any party, shall transfer the proceeding to a proper court.

(b) The petition must show (1) that application was made to the board under Section 911.4 and was denied or deemed denied, (2) the reason for failure to present the claim within the time limit specified in Section 911.2 and (3) the information required by Section 910. The petition shall be filed within six months after the application to the board is denied or deemed to be denied pursuant to Section 911.6.

(c) The court shall relieve the petitioner from the provisions of Section 945.4 if the court finds that the application to the board under Section 911.4 was made within a reasonable time not to exceed that specified in subdivision (b) of Section 911.4 and was denied or deemed denied pursuant to Section 911.6 and that one or more of the following is applicable:

(1) The failure to present the claim was through mistake, inadvertence, surprise, or excusable neglect unless the public entity establishes that it would be prejudiced in the defense of the claim if the court relieves the petitioner from the provisions of Section 945.4.

(2) The person who sustained the alleged injury, damage, or loss was a minor during all of the time specified in Section 911.2 for the presentation of the claim.

(3) The person who sustained the alleged injury, damage, or loss was physically or mentally incapacitated during all of the time specified in Section 911.2 for the presentation of the claim and by reason of such disability failed to present a claim during such time.

(4) The person who sustained the alleged injury, damage, or loss died before the expiration of the time specified in Section 911.2 for the presentation of the claim.

(d) A copy of the petition and a written notice of the time and place of hearing thereof shall be served not less than 10 days before the hearing on (1) the clerk or secretary or board of the local public

entity, if the respondent is a local public entity, or (2) the State Board of Control or its secretary, if the respondent is the state.

(e) The court shall make an independent determination upon the petition. The determination shall be made upon the basis of the petition, any affidavits in support of or in opposition to the petition, and any additional evidence received at the hearing on the petition.

(f) If the court makes an order relieving the petitioner from the provisions of Section 945.4, suit on the cause of action to which the claim relates must be filed in such court within 30 days thereafter.

SEC. 23. Chapter 6 (commencing with Section 962) is added to Part 4 of Division 3.6 of Title 1 of the Government Code, to read:

CHAPTER 6. POSTJUDGMENT SETTLEMENT CONFERENCE

962. Upon entry of a verdict against a public entity in excess of one hundred thousand dollars ($100,000) in an action for personal injury or wrongful death, the public entity may, within the time set in Section 659 of the Code of Civil Procedure, request in writing a mandatory settlement conference for the purpose of discussing available methods by which the judgment shall be satisfied. The court shall then set a date for the conference. The request may be noticed with any motions pursuant to Sections 984 and 985 of the Government Code or Section 659 of the Code of Civil Procedure. At the conference the parties shall negotiate in good faith and shall review and consider structured payment plans presented by either party. The conference shall not occur until after determination of any motion for a new trial, motion for judgment notwithstanding the verdict, motion for remittitur and motion for additur, but shall occur before hearing on any motions pursuant to Sections 984 and 985.

The Judicial Council shall adopt rules providing for a reasonable extension of the time for filing the notice of appeal from a judgment on the verdict to permit a request for the mandatory settlement conference and the mandatory settlement conference itself.

SEC. 24. Chapter 3.7 (commencing with Section 984) is added to Part 5 of Division 3.6 of Title 1 of the Government Code, to read:

CHAPTER 3.7 PROCEDURES APPLICABLE TO STATE AND LOCAL PUBLIC ENTITIES

984. (a) As used in this section, "not insured" includes a public entity that has no liability insurance or is self-insured by itself, or through an insurance pooling arrangement, a joint powers agreement, the Local Agency Self Insurance Authority, or any other similar arrangement.

(b) If a public entity has commercial insurance as to a portion of the judgment, this section shall only apply to that portion of the judgment which is "not insured" as defined in this section.

(c) A judgment against a public entity may be ordered to be paid by periodic payments only if ordered under Section 667.7 of the Code

of Civil Procedure or Section 970.6, or if the public entity has made an election under subdivision (d), or if the parties have agreed to it.

(d) If, after making any deductions pursuant to Section 985 of the Government Code, the judgment on a tort claims action against a public entity that is not insured is greater than five hundred thousand dollars ($500,000), the public entity may elect to pay the judgment in periodic payments as provided in this subdivision.

Effective January 1, 1990, the five hundred thousand dollar ($500,000) threshold amount shall be five hundred fifty thousand dollars ($550,000). Effective January 1, 1992, that amount shall be six hundred thousand dollars ($600,000). Effective January 1, 1994, that amount shall be six hundred fifty thousand dollars ($650,000). Effective January 1, 1996, that amount shall be seven hundred twenty-five thousand dollars ($725,000), and thereafter, the seven hundred twenty-five thousand dollar ($725,000) amount shall be increased 5 percent on January 1 of each year.

After any amounts reimbursed pursuant to Section 985, the judgment-debtor shall pay 50 percent of the remainder immediately, and the other 50 percent of the remainder shall be paid over a period of time to be determined by the court, not to exceed 10 years or the length of the judgment-creditor's remaining life expectancy at the time the judgment is entered, whichever is less.

(e) The following provisions apply to all judgments for periodic payment under this section against a public entity:

(1) Payments shall not terminate upon the death of the judgment-creditor.

(2) Interest at the same rate as one-year United States Treasury Bills as of January 1, each year shall accrue to the unpaid balance of the judgment, and on each January 1 thereafter throughout the duration of the installment payments the interest shall be adjusted until the judgment is fully satisfied.

(3) Throughout the term of the installment payments until the judgment is fully satisfied, the public entity shall remain liable for all payments due on the judgment and the interest.

(4) The court shall retain jurisdiction in order to enforce, amend, modify, or approve settlement of the installment payments as may be just. Upon a motion by the judgment-creditor, the court shall accelerate the installment payments if it finds any unreasonable delay in, or failure to make payments.

(5) The court, upon motion, may modify the installment payments consistent with Sections 1431 to 1431.5, inclusive, of the Civil Code to account for the insolvency or uncollectability of amounts of the judgment owed by joint tortfeasors. The defendant shall bring a motion for that adjustment under Section 1010 of the Code of Civil Procedure.

(f) Nothing in this section shall prevent the parties from agreeing to settle an action on any other terms.

(g) The Judicial Council shall adopt rules providing for a reasonable extension of the time for filing the notice of appeal from

a judgment on the verdict to permit an election pursuant to this section and any hearing pursuant to subdivision (d).

(h) This section does not apply to contribution and indemnity between joint tortfeasors.

SEC. 25. Chapter 4 (commencing with Section 985) is added to Part 5 of Division 3.6 of Title 1 of the Government Code, to read:

CHAPTER 4. PROCEDURES APPLICABLE TO STATE AND LOCAL PUBLIC ENTITIES

985. (a) As used in this section:

(1) "Collateral source payment" includes either of the following:

(A) The direct provision of services prior to the commencement of trial to the plaintiff for the same injury or death by prepaid health maintenance organizations providing services to their members or by nonfederal publicly funded health service providers.

(B) Monetary payments paid or obligated to be paid for services or benefits that were provided prior to the commencement of trial to or on behalf of the plaintiff for the same injury or death from a provider of collateral source payments described in paragraphs (1) and (2) of subdivision (f).

(2) "Plaintiff" includes, but is not limited to, a person or entity who is entitled to make a claim under Part 2 (commencing with Section 6400) of Division 6 of the Probate Code for the collateral source benefits against the tortfeasor or alleged tortfeasor, and in the case of a minor, the minor and the minor's parent, legal guardian or guardian ad litem.

(3) "Commencement of trial" occurs as defined in paragraph (6) of subdivision (a) of Section 581 of the Code of Civil Procedure.

(b) Any collateral source payment paid or owed to or on behalf of a plaintiff shall be inadmissible in any action for personal injuries or wrongful death where a public entity is a defendant. However, after a verdict has been returned against a public entity that includes damages for which payment from a collateral source listed below has already been paid or is obligated to be paid for services or benefits that were provided prior to the commencement of trial, and the total of the collateral source payments is greater than five thousand dollars ($5,000), that amount to be increased 5 percent compounded on January 1, 1989, and each January 1 thereafter, the defendant public entity may, by a motion noticed within the time set in Section 659 of the Code of Civil Procedure, request a posttrial hearing for a reduction of the judgment against the defendant public entity for collateral source payments paid or obligated to be paid for services or benefits that were provided prior to the commencement of trial. The hearing may be noticed with any motions pursuant to Sections 962 and 984 of the Government Code or Section 659 of the Code of Civil Procedure; however, the hearing shall not occur until after the determination of any motions for a new trial, for judgment notwithstanding the verdict, for remittitur, for additur, and after any

mandatory settlement conference pursuant to Section 962 of the Government Code.

(c) A defendant public entity may, by interrogatory or in writing at the trial-setting conference, request from the plaintiff a list of the names and addresses of any provider of a collateral source payment affected by this section that has provided collateral source payments directly to or on behalf of the plaintiff and the amount provided to the plaintiff from each collateral source. The plaintiff shall produce the requested list within 30 days of such request. The plaintiff shall have a continuing duty to disclose to the public entity defendant the name and address of any provider of a collateral source payment affected by this section but not disclosed in plaintiff's response if that provider pays or owes collateral source payments to or on behalf of plaintiff between the time of plaintiff's response and the commencement of trial.

The public entity shall provide written notice to each provider of a collateral source payment listed by the plaintiff or identified by defendant of the date set for any pretrial settlement conference.

The provider of a collateral source shall not be required to attend a settlement conference unless requested to do so by the court. The court may request a provider of a collateral source to attend a settlement conference or to provide written information, to be available by telephone, or to otherwise participate in the conference, and a provider of a collateral source shall waive its rights to reimbursement unless it attends or otherwise complies with the request.

(d) If the plaintiff fails or refuses to supply to the defendant public entity information as to the identity of a provider of a collateral source payment, as required by this section, the defendant public entity may, upon discovery of the identity of the provider of a collateral source payment, within five years of the date of entry of judgment, request a reduction of the judgment for payment made or for services provided prior to the commencement of trial by that source. Failure of plaintiff to provide the names of collateral source providers affected by this section and known to plaintiff, shall subject plaintiff or plaintiff's attorney to sanctions pursuant to Section 128.5 of the Code of Civil Procedure.

(e) The public entity shall also give 20 days' notice to the provider of a collateral source payment of any posttrial settlement conference or hearing regarding collateral source payments under this section.

Proof of service of any notice sent pursuant to this section shall be filed with the court and a copy served on all parties to the action.

(f) At the hearing the trial court shall, in its discretion and on terms as may be just, make a final determination as to any pending lien and subrogation rights, and, subject to paragraphs (1) to (3), inclusive, determine what portion of collateral source payments should be reimbursed from the judgment to the provider of a collateral source payment, deducted from the verdict, or accrue to the benefit of the plaintiff. No provider of collateral source payments

pursuant to this section shall recover any amount against the plaintiff nor shall it be subrogated to the rights of the plaintiff against a public entity defendant other than in the amount so determined by the court. The following provisions shall apply to the court's adjustments:

(1) If the court has determined that the verdict included money damages for which the plaintiff has already received payment from or had his or her expenses paid by the following collateral sources: Medi-Cal, county health care, Aid to Families with Dependent Children, Victims of Crime, or other nonfederal publicly funded sources of benefit with statutory lien rights, the court shall order reimbursement from the judgment of those amounts to the provider of a collateral source payment pursuant to this section and on terms as may be just.

(2) If the court has determined that the verdict includes money damages for which the plaintiff has already received payment from or had his or her expenses paid by the following collateral sources: private medical programs, health maintenance organizations, state disability, unemployment insurance, private disability insurance, or other sources of compensation similar to those listed in this paragraph, the court may, after considering the totality of all circumstances and on terms as may be just, determine what portion of the collateral source benefits will be reimbursed from the judgment to the provider of the collateral source payment, used to reduce the verdict, or accrue to the benefit of the plaintiff. However, nothing in this section shall create subrogation or lien rights that do not already exist.

(3) In determining the amount to be reimbursed from the judgment to a provider of a collateral source payment, or the amount by which the judgment will be reduced to account for collateral source payments, the court shall make the following adjustments:

(A) Where plaintiff has been found partially at fault, the reimbursement or reduction shall be decreased by the same percentage as the entire judgment is reduced to take into account the plaintiff's comparative fault.

(B) The court shall deduct from the reimbursement or reduction the amount of premiums the court determines were paid by or on behalf of the plaintiff to the provider of a collateral source payment.

(C) After making the adjustments described in subparagraphs (A) and (B) above, the court shall reduce that amount by a percentage equal to the percentage of the entire judgment that the plaintiff paid or owes for his or her attorney fees and costs and reasonable expenses incurred.

(g) In no event shall the total dollar amount deducted from the verdict, paid to lienholders or reimbursed to all collateral source providers, exceed one-half of the plaintiff's net recovery for all damages after deducting for attorney's fees, medical services paid by the plaintiff, and litigation costs; however, the court may order no reimbursement or verdict reduction if the reimbursement or reduction would result in undue financial hardship upon the person

who suffered the injury.

(h) Unless otherwise ordered by the court, 50 percent of any amount reimbursed pursuant to this section shall be due immediately. The court may order the remaining 50 percent to be paid in installments over a period of time to be determined by the court pursuant to Section 984, not to exceed 10 years.

(i) In any case involving multiple defendants, a reduction pursuant to this section shall be proportional to the percentage of the judgment actually paid by the public entity and shall satisfy the judgment as to the portion reduced so that no other judgment debtor shall be jointly liable for the portion of the judgment reduced pursuant to this section. If, after a hearing and determination pursuant to this section, the public entity judgment debtor is required to satisfy a portion of a joint and several judgment beyond that public entity judgment debtor's several portion due to the uncollectability of a joint tortfeasor's portion, the public entity may make a motion to reduce the additional portion in an amount proportional to the determination of the court pursuant to this section.

(j) In all actions affected by this section, the court shall instruct the jury with the following language:

"You shall award damages in an amount that fully compensates plaintiff for damages in accordance with instructions from the court. You shall not speculate or consider any other possible sources of benefit the plaintiff may have received. After you have returned your verdict the court will make whatever adjustments are necessary in this regard."

(k) The Judicial Council shall adopt rules providing for a reasonable extension of the time for filing the notice of appeal from a judgment on the verdict to permit a motion for the hearing and the hearing itself.

(*l*) If the defendant public entity or defendant public employee is also a health care provider as defined in Section 3333.1 of the Civil Code, that section controls as to that defendant.

(m) This chapter does not apply to lien or subrogation rights provided in Chapter 5 (commencing with Section 385) of Part 1 of Division 4 of the Labor Code.

SEC. 26. Section 17004.7 is added to the Vehicle Code, to read:

17004.7. (a) The immunity provided by this section is in addition to any other immunity provided by law. The adoption of a policy by a public agency pursuant to this section is discretionary.

(b) A public agency employing peace officers which adopts a written policy on vehicular pursuits complying with subdivision (c) is immune from liability for civil damages for personal injury to or death of any person or damage to property resulting from the collision of a vehicle being operated by an actual or suspected violator of the law who is being, has been, or believes he or she is being or has been, pursued by a peace officer employed by the public entity in a motor vehicle.

(c) If the public entity has adopted a policy for the safe conduct of vehicular pursuits by peace officers, it shall meet all of the following minimum standards:

(1) It provides that, if availabile, there be supervisory control of the pursuit.

(2) It provides procedures for designating the primary pursuit vehicle and for determining the total number of vehicles to be permitted to participate at one time in the pursuit.

(3) It provides procedures for coordinating operations with other jurisdictions.

(4) It provides guidelines for determining when the interests of public safety and effective law enforcement justify a vehicular pursuit and when a vehicular pursuit should not be initiated or should be terminated.

(d) A determination of whether a policy adopted pursuant to subdivision (c) complies with that subdivision is a question of law for the court.

SEC. 27. It is not the intent of the Legislature by Sections 5, 6, 7, and 8, of this act to change case law or statutory law regarding the duty of loyalty of a director.

SEC. 28. In repealing and adding Section 669.1 of the Evidence Code and amending Section 811.6 of the Government Code, by Sections 12, 13, and 14 of this act, the Legislature intends to clarify Instruction No. 3.45 of the Book of Approved California Jury Instructions, 7th Edition.

SEC. 29. Sections 3, 9, 10, and 11 to 25, inclusive, of this act apply to actions based upon acts or omissions occurring on or after January 1, 1988.

SEC. 30. Section 26 of this act applies only to actions based upon acts or omissions occurring on or after January 1, 1988, and the adoption of a policy by the public entity that complies with section 17004.7 of the Vehicle Code.

SEC. 31. Section 1 of this act applies only to actions commenced on or after January 1, 1990.

SEC. 32. It is the intent of the Legislature that Section 820.9 of the Government Code, added by Section 15 of this act, is a codification of, and does not constitute a change in, existing law.

CHAPTER 1202

An act to amend Section 877.5 of the Code of Civil Procedure, relating to liability.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987]

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

SECTION 1. Section 877.5 of the Code of Civil Procedure is amended to read:

877.5. (a) Where an agreement or convenant is made which provides for a sliding scale recovery agreement between one or more, but not all, alleged defendant tortfeasors and the plaintiff or plaintiffs:

(1) The parties entering into any such agreement or covenant shall promptly inform the court in which the action is pending of the existence of the agreement or convenant and its terms and provisions; and

(2) If the action is tried before a jury, and a defendant party to the agreement is called as a witness at trial, the court shall, upon motion of a party, disclose to the jury the existence and content of the agreement or covenant, unless the court finds that such disclosure will create substantial danger of undue prejudice, of confusing the issues, or of misleading the jury.

The jury disclosure herein required shall be no more than necessary to inform the jury of the possibility that the agreement may bias the testimony of the witness.

(b) As used in this section, a "sliding scale recovery agreement" means an agreement or covenant between a plaintiff or plaintiffs and one or more, but not all, alleged tortfeasor defendants, which limits the liability of the agreeing tortfeasor defendants to an amount which is dependent upon the amount of recovery which the plaintiff is able to recover from the nonagreeing defendant or defendants. This includes, but is not limited to, agreements within the scope of Section 877, and agreements in the form of a loan from the agreeing tortfeasor defendant or defendants to the plaintiff or plaintiffs which is repayable in whole or in part from the recovery against the nonagreeing tortfeasor defendant or defendants.

(c) No sliding scale recovery agreement is effective unless a notice of intent to enter into an agreement has been served on all nonsignatory alleged defendant tortfeasors.

SEC. 2. This act applies only to actions based upon acts or omissions occurring on or after January 1, 1988.

SEC. 3. This act shall become operative only if Assembly Bills 1530, 1909, 1912, and 2616, and Senate Bills 23, 1382, 1526, and 1598 are all enacted and become effective on or before January 1, 1988.

CHAPTER 1203

An act to amend Sections 204, 309, and 317 of, and to add Section 204.5 to, the Corporations Code, relating to corporations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987.]

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

SECTION 1. Section 204 of the Corporations Code is amended to read:

204. The articles of incorporation may set forth:

(a) Any or all of the following provisions, which shall not be effective unless expressly provided in the articles:

(1) Granting, with or without limitations, the power to levy assessments upon the shares or any class of shares.

(2) Granting to shareholders preemptive rights to subscribe to any or all issues of shares or securities.

(3) Special qualifications of persons who may be shareholders.

(4) A provision limiting the duration of the corporation's existence to a specified date.

(5) A provision requiring, for any or all corporate actions (except as provided in Section 303, subdivision (b) of Section 402.5, subdivision (c) of Section 708 and Section 1900) the vote of a larger proportion or of all of the shares of any class or series, or the vote or quorum for taking action of a larger proportion or of all of the directors, than is otherwise required by this division.

(6) A provision limiting or restricting the business in which the corporation may engage or the powers which the corporation may exercise or both.

(7) A provision conferring upon the holders of any evidences of indebtedness, issued or to be issued by the corporation, the right to vote in the election of directors and on any other matters on which shareholders may vote.

(8) A provision conferring upon shareholders the right to determine the consideration for which shares shall be issued.

(9) A provision requiring the approval of the shareholders (Section 153) or the approval of the outstanding shares (Section 152) for any corporate action, even though not otherwise required by this division.

(10) Provisions eliminating or limiting the personal liability of a director for monetary damages in an action brought by or in the right of the corporation for breach of a director's duties to the corporation and its shareholders, as set forth in Section 309, provided, however, that (A) such a provision may not eliminate or limit the liability of directors (i) for acts or omissions that involve intentional misconduct or a knowing and culpable violation of law, (ii) for acts or omissions

that a director believes to be contrary to the best interests of the corporation or its shareholders or that involve the absence of good faith on the part of the director, (iii) for any transaction from which a director derived an improper personal benefit, (iv) for acts or omissions that show a reckless disregard for the director's duty to the corporation or its shareholders in circumstances in which the director was aware, or should have been aware, in the ordinary course of performing a director's duties, of a risk of serious injury to the corporation or its shareholders, (v) for acts or omissions that constitute an unexcused pattern of inattention that amounts to an abdication of the director's duty to the corporation or its shareholders, (vi) under Section 310, or (vii) under Section 316, (B) no such provision shall eliminate or limit the liability of a director for any act or omission occurring prior to the date when the provision becomes effective, and (C) no such provision shall eliminate or limit the liability of an officer for any act or omission as an officer, notwithstanding that the officer is also a director or that his or her actions, if negligent or improper, have been ratified by the directors.

(11) A provision authorizing, whether by bylaw, agreement, or otherwise, the indemnification of agents (as defined in Section 317) in excess of that expressly permitted by Section 317 for those agents of the corporation for breach of duty to the corporation and its stockholders, provided, however, that the provision may not provide for indemnification of any agent for any acts or omissions or transactions from which a director may not be relieved of liability as set forth in the exception to paragraph (10) or as to circumstances in which indemnity is expressly prohibited by Section 317.

Notwithstanding this subdivision, in the case of a close corporation any of the provisions referred to above may be validly included in a shareholders' agreement. Notwithstanding this subdivision, bylaws may require for all or any actions by the board the affirmative vote of a majority of the authorized number of directors. Nothing contained in this subdivision shall affect the enforceability, as between the parties thereto, of any lawful agreement not otherwise contrary to public policy.

(b) Reasonable restrictions upon the right to transfer or hypothecate shares of any class or classes or series, but no restriction shall be binding with respect to shares issued prior to the adoption of the restriction unless the holders of such shares voted in favor of the restriction.

(c) The names and addresses of the persons appointed to act as initial directors.

(d) Any other provision, not in conflict with law, for the management of the business and for the conduct of the affairs of the corporation, including any provision which is required or permitted by this division to be stated in the bylaws.

SEC. 1.5. Section 204.5 is added to the Corporations Code, to read:

204.5. (a) If the articles of a corporation include a provision

reading substantially as follows: "The liability of the directors of the corporation for monetary damages shall be eliminated to the fullest extent permissible under California law"; the corporation shall be considered to have adopted a provision as authorized by paragraph (10) of subdivision (a) of Section 204 and more specific wording shall not be required.

(b) This section shall not be construed as setting forth the exclusive method of adopting an article provision as authorized by paragraph (10) of subdivision (a) of Section 204.

(c) This section shall not change the otherwise applicable standards or duties to make full and fair disclosure to shareholders when approval of such a provision is sought.

SEC. 2. Section 309 of the Corporations Code is amended to read:

309. (a) A director shall perform the duties of a director, including duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such director believes to be in the best interests of the corporation and its shareholders and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

(b) In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

(1) One or more officers or employees of the corporation whom the director believes to be reliable and competent in the matters presented.

(2) Counsel. independent accountants or other persons as to matters which the director believes to be within such person's professional or expert competence.

(3) A committee of the board upon which the director does not serve, as to matters within its designated authority, which committee the director believes to merit confidence,

so long as, in any such case, the director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

(c) A person who performs the duties of a director in accordance with subdivisions (a) and (b) shall have no liability based upon any alleged failure to discharge the person's obligations as a director. In addition, the liability of a director for monetary damages may be eliminated or limited in a corporation's articles to the extent provided in paragraph (10) of subdivision (a) of Section 204.

SEC. 3. Section 317 of the Corporations Code is amended to read:

317. (a) For the purposes of this section, "agent" means any person who is or was a director, officer, employee or other agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other

enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation; "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and "expenses" includes without limitation attorneys' fees and any expenses of establishing a right to indemnification under subdivision (d) or paragraph (3) of subdivision (e).

(b) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the corporation to procure a judgment in its favor) by reason of the fact that such person is or was an agent of the corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of the corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

(c) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action by or in the right of the corporation to procure a judgment in its favor by reason of the fact that such person is or was an agent of the corporation, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the best interests of the corporation and its shareholders.

No indemnification shall be made under this subdivision for any of the following:

(1) In respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation in the performance of such person's duty to the corporation and its shareholders, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for expenses and then only to the extent that the court shall determine.

(2) Of amounts paid in settling or otherwise disposing of a pending action without court approval.

(3) Of expenses incurred in defending a pending action which is settled or otherwise disposed of without court approval.

(d) To the extent that an agent of a corporation has been successful on the merits in defense of any proceeding referred to in subdivision (b) or (c) or in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

(e) Except as provided in subdivision (d), any indemnification under this section shall be made by the corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in subdivision (b) or (c), by any of the following:

(1) A majority vote of a quorum consisting of directors who are not parties to such proceeding.

(2) If such a quorum of directors is not obtainable, by independent legal counsel in a written opinion.

(3) Approval of the shareholders (Section 153), with the shares owned by the person to be indemnified not being entitled to vote thereon.

(4) The court in which such proceeding is or was pending upon application made by the corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney or other person is opposed by the corporation.

(f) Expenses incurred in defending any proceeding may be advanced by the corporation prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount if it shall be determined ultimately that the agent is not entitled to be indemnified as authorized in this section.

(g) The indemnification provided by this section shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of shareholders or disinterested directors or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office, to the extent such additional rights to indemnification are authorized in the articles of the corporation. The rights to indemnity hereunder shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of the person. Nothing contained in this section shall affect any right to indemnification to which persons other than such directors and officers may be entitled by contract or otherwise.

(h) No indemnification or advance shall be made under this section, except as provided in subdivision (d) or paragraph (3) of subdivision (e), in any circumstance where it appears:

(1) That it would be inconsistent with a provision of the articles, bylaws, a resolution of the shareholders or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts

were paid, which prohibits or otherwise limits indemnification.

(2) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

(i) A corporation shall have power to purchase and maintain insurance on behalf of any agent of the corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the corporation would have the power to indemnify the agent against such liability under the provisions of this section. The fact that a corporation owns all or a portion of the shares of the company issuing a policy of insurance shall not render this subdivision inapplicable if either of the following conditions are satisfied: (1) if authorized in the articles of the corporation, any policy issued is limited to the extent provided by subdivision (d) of Section 204; or (2) (A) the company issuing the insurance policy is organized, licensed, and operated in a manner that complies with the insurance laws and regulations applicable to its jurisdiction of organization, (B) the company issuing the policy provides procedures for processing claims that do not permit that company to be subject to the direct control of the corporation that purchased that policy, and (C) the policy issued provides for some manner of risk sharing between the issuer and purchaser of the policy, on one hand, and some unaffiliated person or persons, on the other, such as by providing for more than one unaffiliated owner of the company issuing the policy or by providing that a portion of the coverage furnished will be obtained from some unaffiliated insurer or reinsurer.

(j) This section does not apply to any proceeding against any trustee, investment manager or other fiduciary of an employee benefit plan in such person's capacity as such, even though such person may also be an agent as defined in subdivision (a) of the employer corporation. A corporation shall have power to indemnify such a trustee, investment manager or other fiduciary to the extent permitted by subdivision (f) of Section 207.

SEC. 4. It is not the intent of the Legislature by this act to change case law or statutory law regarding the duty of loyalty of a director.

SEC. 5. This act shall become operative only if Assembly Bills 344, 1909, 1912, and 2616, and Senate Bills 23, 1382, 1526, and 1598 are all enacted and become effective on or before January 1, 1988.

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 corporations to immediately deal with the crises created by the virtual unavailability of director's and officer's liability insurance it is necessary for this act to take effect immediately.

CHAPTER 1204

An act to amend Section 1141.11 of the Code of Civil Procedure, and to add Chapter 6 (commencing with Section 962) to Part 4 of, and Chapter 3.7 (commencing with Section 984) to Part 5 of, Division 3.6 of Title 1 of the Government Code, relating to liability.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987.]

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

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

1141.11. (a) In each superior court with 10 or more judges, all at-issue civil actions pending on or filed after the operative date of this chapter shall be submitted to arbitration, by the presiding judge or the judge designated, under this chapter if the amount in controversy in the opinion of the court will not exceed fifty thousand dollars ($50,000) 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 fifty thousand dollars ($50,000) for each plaintiff, which decision shall not be appealable.

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

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

(e) No local rule of a superior court providing for judicial arbitration may dispense with the conference required pursuant to Section 1141.16.

SEC. 2. Chapter 6 (commencing with Section 962) is added to Part 4 of Division 3.6 of Title 1 of the Government Code, to read:

CHAPTER 6. POSTJUDGMENT SETTLEMENT CONFERENCE

962. Upon entry of a verdict against a public entity in excess of one hundred thousand dollars ($100,000) in an action for personal injury or wrongful death, the public entity may, within the time set in Section 659 of the Code of Civil Procedure, request in writing a mandatory settlement conference for the purpose of discussing available methods by which the judgment shall be satisfied. The court shall then set a date for the conference. The request may be noticed with any motions pursuant to Sections 984 and 985 of the Government Code or Section 659 of the Code of Civil Procedure. At the conference the parties shall negotiate in good faith and shall review and consider structured payment plans presented by either party. The conference shall not occur until after determination of any motion for a new trial, motion for judgment notwithstanding the verdict, motion for remittitur and motion for additur, but shall occur before hearing on any motions pursuant to Sections 984 and 985.

The Judicial Council shall adopt rules providing for a reasonable extension of the time for filing the notice of appeal from a judgment on the verdict to permit a request for the mandatory settlement conference and the mandatory settlement conference itself.

SEC. 3. Chapter 3.7 (commencing with Section 984) is added to Part 5 of Division 3.6 of Title 1 of the Government Code, to read:

CHAPTER 3.7. PROCEDURES APPLICABLE TO STATE AND LOCAL PUBLIC ENTITIES

984. (a) As used in this section, "not insured" includes a public entity that has no liability insurance or is self-insured by itself, or through an insurance pooling arrangement, a joint powers agreement, the Local Agency Self Insurance Authority, or any other similar arrangement.

(b) If a public entity has commercial insurance as to a portion of the judgment, this section shall only apply to that portion of the judgment which is "not insured" as defined in this section.

(c) A judgment against a public entity may be ordered to be paid by periodic payments only if ordered under Section 667.7 of the Code of Civil Procedure or Section 970.6, or if the public entity has made an election under subdivision (d), or if the parties have agreed to it.

(d) If, after making any deductions pursuant to Section 985 of the Government Code, the judgment on a tort claims action against a public entity that is not insured is greater than five hundred thousand dollars ($500,000), the public entity may elect to pay the judgment in periodic payments as provided in this subdivision.

Effective January 1, 1990, the five hundred thousand dollar ($500,000) threshold amount shall be five hundred fifty thousand

dollars ($550,000). Effective January 1, 1992, that amount shall be six hundred thousand dollars ($600,000). Effective January 1, 1994, that amount shall be six hundred fifty thousand dollars ($650,000). Effective January 1, 1996, that amount shall be seven hundred twenty-five thousand dollars ($725,000), and thereafter, the seven hundred twenty-five thousand dollar ($725,000) amount shall be increased 5 percent on January 1 of each year.

After any amounts reimbursed pursuant to Section 985, the judgment-debtor shall pay 50 percent of the remainder immediately, and the other 50 percent of the remainder shall be paid over a period of time to be determined by the court, not to exceed 10 years or the length of the judgment-creditor's remaining life expectancy at the time the judgment is entered, whichever is less.

(e) The following provisions apply to all judgments for periodic payment under this section against a public entity:

(1) Payments shall not terminate upon the death of the judgment-creditor.

(2) Interest at the same rate as one-year United States Treasury bills as of January 1, each year shall accrue to the unpaid balance of the judgment, and on each January 1 thereafter throughout the duration of the installment payments the interest shall be adjusted until the judgment is fully satisfied.

(3) Throughout the term of the installment payments until the judgment is fully satisfied, the public entity shall remain liable for all payments due on the judgment and the interest.

(4) The court shall retain jurisdiction in order to enforce, amend, modify, or approve settlement of the installment payments as may be just. Upon a motion by the judgment-creditor, the court shall accelerate the installment payments if it finds any unreasonable delay in, or failure to make payments.

(5) The court, upon motion, may modify the installment payments consistent with Sections 1431 to 1431.5, inclusive, of the Civil Code to account for the insolvency or uncollectability of amounts of the judgment owed by joint tortfeasors. The defendant shall bring a motion for that adjustment under Section 1010 of the Code of Civil Procedure.

(f) Nothing in this section shall prevent the parties from agreeing to settle an action on any other terms.

(g) The Judicial Council shall adopt rules providing for a reasonable extension of the time for filing the notice of appeal from a judgment on the verdict to permit an election pursuant to this section and any hearing pursuant to subdivision (d).

(h) This section does not apply to contribution and indemnity between joint tortfeasors.

SEC. 4. Sections 2 and 3 apply only to actions based upon acts or omissions occurring on or after January 1, 1988.

SEC. 5. This act shall become operative only if Assembly Bills 344, 1530, 1912, and 2616, and Senate Bills 23, 1382, 1526, and 1598 are all enacted and become effective on or before January 1, 1988.

CHAPTER 1205

An act to add Section 17004.7 to the Vehicle Code, relating to liability.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987]

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

SECTION 1. Section 17004.7 is added to the Vehicle Code, to read:

17004.7. (a) The immunity provided by this section is in addition to any other immunity provided by law. The adoption of a policy by a public agency pursuant to this section is discretionary.

(b) A public agency employing peace officers which adopts a written policy on vehicular pursuits complying with subdivision (c) is immune from liability for civil damages for personal injury to or death of any person or damage to property resulting from the collision of a vehicle being operated by an actual or suspected violator of the law who is being, has been, or believes he or she is being or has been, pursued by a peace officer employed by the public entity in a motor vehicle.

(c) If the public entity has adopted a policy for the safe conduct of vehicular pursuits by peace officers, it shall meet all of the following minimum standards:

(1) It provides that, if available, there be supervisory control of the pursuit.

(2) It provides procedures for designating the primary pursuit vehicle and for determining the total number of vehicles to be permitted to participate at one time in the pursuit.

(3) It provides procedures for coordinating operations with other jurisdictions.

(4) It provides guidelines for determining when the interests of public safety and effective law enforcement justify a vehicular pursuit and when a vehicular pursuit should not be initiated or should be terminated.

(d) A determination of whether a policy adopted pursuant to subdivision (c) complies with that subdivision is a question of law for the court.

SEC. 2. This act applies only to actions based upon acts or omissions occurring on or after January 1, 1988, and the adoption of a policy by the public entity that complies with Section 17004.7 of the Vehicle Code.

SEC. 3. This act shall become operative only if Assembly Bills 344, 1530, 1909, and 2616, and Senate Bills 23, 1382, 1526, and 1598 are all enacted and become effective on or before January 1, 1988.

CHAPTER 1206

An act to add Sections 5239, 7231.5, and 9247 to the Corporations Code, relating to liability.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987.]

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

SECTION 1. Section 5239 is added to the Corporations Code, to read:

5239. (a) There shall be no personal liability to a third party on the part of a volunteer director or volunteer executive committee officer of a nonprofit corporation incorporated pursuant to this part, caused by the director's or officer's negligent act or omission in the performance of that person's duties as a director or officer, if all of the following conditions are met:

(1) The act or omission was within the scope of the director's or executive committee officer's duties.

(2) The act or omission was performed in good faith.

(3) The act or omission was not reckless, wanton, intentional, or grossly negligent.

(4) Damages caused by the act or omission are covered pursuant to a liability insurance policy issued to the corporation, either in the form of a general liability policy or a director's and officer's liability policy, or personally to the director or executive committee officer. In the event that the damages are not covered by a liability insurance policy, the volunteer director or volunteer executive committee officer shall not be personally liable for the damages if the board of directors of the corporation and the person had made all reasonable efforts in good faith to obtain available liability insurance.

(b) "Volunteer" means the rendering of services without compensation. "Compensation" means remuneration whether by way of salary, fee, or other consideration for services rendered. However, the payment of per diem, mileage, or other reimbursement expenses to a director or executive committee officer does not affect that person's status as a volunteer within the meaning of this section.

(c) "Executive committee officer" means the president, vice president, secretary, or treasurer of a corporation who assists in establishing the policy of the corporation.

(d) Nothing in this section shall limit the liability of the corporation for any damages caused by acts or omissions of the volunteer director or volunteer executive committee officer.

(e) This section does not eliminate or limit the liability of a director or officer for any of the following:

(1) As provided in Section 5233 or 5237.

(2) In any action or proceeding brought by the Attorney General.

(f) Nothing in this section creates a duty of care or basis of liability for damage or injury caused by the acts or omissions of a director or officer.

(g) This section is only applicable to causes of action based upon acts or omissions occurring on or after January 1, 1988.

SEC. 2. Section 7231.5 is added to the Corporations Code, to read:

7231.5. (a) Except as provided in Section 7233 or 7236, there is no monetary liability on the part of, and no cause of action for damages shall arise against, any volunteer director or volunteer executive committee officer of a nonprofit mutual benefit corporation based upon any alleged failure to discharge the person's duties as a director or officer if the duties are performed in a manner that meets all of the following criteria:

(1) The duties are performed in good faith.

(2) The duties are performed in a manner such director or officer believes to be in the best interests of the corporation.

(3) The duties are performed with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

(b) "Volunteer" means the rendering of services without compensation. "Compensation" means remuneration whether by way of salary, fee, or other consideration for services rendered. However, the payment of per diem, mileage, or other reimbursement expenses to a director or executive committee officer does not affect that person's status as a volunteer within the meaning of this section.

(c) "Executive committee officer" means the president, vice president, secretary, or treasurer of a corporation who assists in establishing the policy of the corporation.

(d) This section shall apply only to trade, professional, and labor organizations incorporated pursuant to this part which operate exclusively for fraternal, educational, and other nonprofit purposes, and under the provisions of Section 501(c) of the United States Internal Revenue Code.

SEC. 3. Section 9247 is added to the Corporations Code, to read:

9247. (a) There shall be no personal liability for monetary damages to a third party on the part of a volunteer director or volunteer executive committee officer of a nonprofit corporation incorporated pursuant to this part, caused by the director's or officer's negligent act or omission in the performance of that person's duties as a director or officer, if all of the following conditions are met:

(1) The act or omission was within the scope of the director's or executive committee officer's duties.

(2) The act or omission was performed in good faith.

(3) The act or omission was not reckless, wanton, intentional, or grossly negligent.

(4) Damages caused by the act or omission are covered pursuant to a liability insurance policy issued to the corporation, either in the

form of a general liability policy or a director's or officer's liability policy, or personally to the director or executive committee officer. In the event that the damages are not covered by a liability insurance policy, the volunteer director or volunteer executive committee officer shall not be personally liable for the damages if the board of directors of the corporation and the person had made all reasonable efforts in good faith to obtain available liability insurance.

(b) "Volunteer" means the rendering of services without compensation. "Compensation" means remuneration whether by way of salary, fee, or other consideration for services rendered. However, the payment of per diem, mileage, or other reimbursement expenses to a director or executive committee officer does not affect that person's status as a volunteer within the meaning of this section.

(c) "Executive committee officer" means the president, vice president, secretary, or treasurer of a corporation who assists in establishing the policy of the corporation.

(d) Nothing in this section shall limit the liability of the corporation for any damages caused by acts or omissions of the volunteer director or volunteer executive committee officer.

(e) This section does not eliminate or limit the liability of a director or officer for any of the following:

(1) As provided in Section 9243 or 9245.

(2) In any action or proceeding brought by the Attorney General.

(f) Nothing in this section creates a duty of care or basis of liability for damage or injury caused by the acts or omissions of a director or officer.

(g) This section is only applicable to causes of action based upon acts or omissions occurring on or after January 1, 1988.

SEC. 4. This act shall become operative only if Assembly Bills 344, 1530, 1909, 1912, and 2616, and Senate Bills 23, 1382, and 1598 are all enacted and become effective on or before January 1, 1988.

CHAPTER 1207

An act to repeal and add Section 669.1 of the Evidence Code, and to amend Section 811.6 to the Government Code, relating to liability.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987.]

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

SECTION 1. Section 669.1 of the Evidence Code is repealed.

SEC. 2. Section 669.1 is added to the Evidence Code, to read:

669.1. A rule, policy, manual, or guideline of state or local government setting forth standards of conduct or guidelines for its employees in the conduct of their public employment shall not be

considered a statute, ordinance, or regulation of that public entity within the meaning of Section 669, unless the rule, manual, policy, or guideline has been formally adopted as a statute, as an ordinance of a local governmental entity in this state empowered to adopt ordinances, or as a regulation by an agency of the state pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code), or by an agency of the United States government pursuant to the federal Administrative Procedure Act (Chapter 5 (commencing with Section 5001) of Title 5 of the United States Code). This section affects only the presumption set forth in Section 669, and is not otherwise intended to affect the admissibility or inadmissibility of the rule, policy, manual, or guideline under other provisions of law.

SEC. 3. Section 811.6 of the Government Code is amended to read:

811.6. "Regulation" means a rule, regulation, order or standard, having the force of law, adopted by an employee or agency of the United States pursuant to the federal Administrative Procedure Act (Chapter 5 (commencing with Section 5001) of Title 5 of the United States Code) or as a regulation by an agency of the state pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code).

SEC. 4. This act applies only to actions arising on or after January 1, 1988.

SEC. 5. In repealing and adding Section 669.1 of the Evidence Code and amending Section 811.6 of the Government Code, the Legislature intends to clarify Instruction No. 3.45 of the Book of Approved California Jury Instructions, 7th Edition.

SEC. 6. This act shall become operative only if Assembly Bills 344, 1530, 1909, 1912, and 2616, and Senate Bills 23, 1382, and 1526 are all enacted and become effective on or before January 1, 1988.

CHAPTER 1208

An act to amend Sections 910, 911.2, 911.3, 911.4, 911.6, and 946.6 of, to add Sections 820.9 to, and to add Chapter 4 (commencing with Section 985) to Part 5 of Division 3.6 of Title 1 of, the Government Code, and to amend Section 3 of Senate Bill 1382 and Section 4 of Senate Bill 1598 of the 1987–88 Regular Session, relating to public liability.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987.]

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

SECTION 1. Section 820.9 is added to the Government Code, to read:

820.9. Members of city councils, mayors, members of boards of supervisors, members of school boards, members of governing boards of other local public entities, and members of locally appointed boards and commissions are not vicariously liable for injuries caused by the act or omission of the public entity. Nothing in this section exonerates an official from liability for injury caused by that individual's own wrongful conduct. Nothing in this section affects the immunity of any other public official.

SEC. 2. Section 910 of the Government Code is amended to read:

910. A claim shall be presented by the claimant or by a person acting on his or her behalf and shall show all of the following:

(a) The name and post office address of the claimant.

(b) The post office address to which the person presenting the claim desires notices to be sent.

(c) The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted.

(d) A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim.

(e) The name or names of the public employee or employees causing the injury, damage, or loss, if known.

(f) The amount claimed if it totals less than ten thousand dollars ($10,000) as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed. If the amount claimed exceeds ten thousand dollars ($10,000), no dollar amount shall be included in the claim. However, it shall indicate whether jurisdiction over the claim would rest in municipal or superior court.

SEC. 3. Section 911.2 of the Government Code is amended to read:

911.2. A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented as provided in Article 2 (commencing with Section 915) of this chapter not later than six months after the accrual of the cause of action. A claim relating to any other cause of action shall be presented as provided in Article 2 (commencing with Section 915) of this chapter not later than one year after the accrual of the cause of action.

SEC. 4. Section 911.3 of the Government Code is amended to read:

911.3. (a) When a claim that is required by Section 911.2 to be presented not later than six months after accrual of the cause of action is presented after such time without the application provided in Section 911.4, the board or other person designated by it may, at any time within 45 days after the claim is presented, give written notice to the person presenting the claim that the claim was not filed timely and that it is being returned without further action. The

notice shall be in substantially the following form:

"The claim you presented to the (insert title of board or officer) on (indicate date) is being returned because it was not presented within six months after the event or occurrence as required by law. See Sections 901 and 911.2 of the Government Code. Because the claim was not presented within the time allowed by law, no action was taken on the claim.

Your only recourse at this time is to apply without delay to (name of public entity) for leave to present a late claim. See Sections 911.4 to 912.2, inclusive, and Section 946.6 of the Government Code. Under some circumstances, leave to present a late claim will be granted. See Section 911.6 of the Government Code.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately."

(b) Any defense as to the time limit for presenting a claim described in subdivision (a) is waived by failure to give the notice set forth in subdivision (a) within 45 days after the claim is presented, except that no notice need be given and no waiver shall result when the claim as presented fails to state either an address to which the person presenting the claim desires notices to be sent or an address of the claimant.

SEC. 5. Section 911.4 of the Government Code is amended to read:

911.4. (a) When a claim that is required by Section 911.2 to be presented not later than six months after the accrual of the cause of action is not presented within such time, a written application may be made to the public entity for leave to present such claim.

(b) The application shall be presented to the public entity as provided in Article 2 (commencing with Section 915) of this chapter within a reasonable time not to exceed one year after the accrual of the cause of action and shall state the reason for the delay in presenting the claim. The proposed claim shall be attached to the application. In computing the one-year period under this subdivision, time during which the person who sustained the alleged injury, damage, or loss is a minor shall be counted, but the time during which he is mentally incapacitated and does not have a guardian or a conservator of his person shall not be counted.

SEC. 6. Section 911.6 of the Government Code is amended to read:

911.6. (a) The board shall grant or deny the application within 45 days after it is presented to the board. The claimant and the board may extend the period within which the board is required to act on the application by written agreement made before the expiration of the period.

(b) The board shall grant the application where one or more of the following is applicable:

(1) The failure to present the claim was through mistake, inadvertence, surprise or excusable neglect and the public entity was

not prejudiced in its defense of the claim by the failure to present the claim within the time specified in Section 911.2.

(2) The person who sustained the alleged injury, damage or loss was a minor during all of the time specified in Section 911.2 for the presentation of the claim.

(3) The person who sustained the alleged injury, damage or loss was physically or mentally incapacitated during all of the time specified in Section 911.2 for the presentation of the claim and by reason of such disability failed to present a claim during such time.

(4) The person who sustained the alleged injury, damage or loss died before the expiration of the time specified in Section 911.2 for the presentation of the claim.

(c) If the board fails or refuses to act on an application within the time prescribed by this section, the application shall be deemed to have been denied on the 45th day or, if the period within which the board is required to act is extended by agreement pursuant to this section, the last day of the period specified in the agreement.

SEC. 7. Section 946.6 of the Government Code is amended to read:

946.6. (a) Where an application for leave to present a claim is denied or deemed to be denied pursuant to Section 911.6, a petition may be made to the court for an order relieving the petitioner from the provisions of Section 945.4. The proper court for filing the petition is a court which would be a competent court for the trial of an action on the cause of action to which the claim relates and which is located in a county or judicial district which would be a proper place for the trial of such action, and if the petition is filed in a court which is not a proper court for the determination of the matter, the court, on motion of any party, shall transfer the proceeding to a proper court.

(b) The petition must show (1) that application was made to the board under Section 911.4 and was denied or deemed denied, (2) the reason for failure to present the claim within the time limit specified in Section 911.2 and (3) the information required by Section 910. The petition shall be filed within six months after the application to the board is denied or deemed to be denied pursuant to Section 911.6.

(c) The court shall relieve the petitioner from the provisions of Section 945.4 if the court finds that the application to the board under Section 911.4 was made within a reasonable time not to exceed that specified in subdivision (b) of Section 911.4 and was denied or deemed denied pursuant to Section 911.6 and that one or more of the following is applicable:

(1) The failure to present the claim was through mistake, inadvertence, surprise or excusable neglect unless the public entity establishes that it would be prejudiced in the defense of the claim if the court relieves the petitioner from the provisions of Section 945.4.

(2) The person who sustained the alleged injury, damage or loss was a minor during all of the time specified in Section 911.2 for the presentation of the claim.

(3) The person who sustained the alleged injury, damage or loss was physically or mentally incapacitated during all of the time specified in Section 911.2 for the presentation of the claim and by reason of such disability failed to present a claim during such time.

(4) The person who sustained the alleged injury, damage or loss died before the expiration of the time specified in Section 911.2 for the presentation of the claim.

(d) A copy of the petition and a written notice of the time and place of hearing thereof shall be served not less than 10 days before the hearing on (1) the clerk or secretary or board of the local public entity, if the respondent is a local public entity, or (2) the State Board of Control or its secretary, if the respondent is the state.

(e) The court shall make an independent determination upon the petition. The determination shall be made upon the basis of the petition, any affidavits in support of or in opposition to the petition, and any additional evidence received at the hearing on the petition.

(f) If the court makes an order relieving the petitioner from the provisions of Section 945.4, suit on the cause of action to which the claim relates must be filed in such court within 30 days thereafter.

SEC. 8. Chapter 4 (commencing with Section 985) is added to Part 5 of Division 3.6 of Title 1 of the Government Code, to read:

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985. (a) As used in this section:

(1) "Collateral source payment" includes either of the following:

(A) The direct provision of services prior to the commencement of trial to the plaintiff for the same injury or death by prepaid health maintenance organizations providing services to their members or by nonfederal publicly funded health service providers.

(B) Monetary payments paid or obligated to be paid for services or benefits that were provided prior to the commencement of trial to or on behalf of the plaintiff for the same injury or death from a provider of collateral source payments described in paragraphs (1) and (2) of subdivision (f).

(2) "Plaintiff" includes, but is not limited to, a person or entity who is entitled to make a claim under Part 2 (commencing with Section 6400) of Division 6 of the Probate Code for the collateral source benefits against the tortfeasor or alleged tortfeasor, and in the case of a minor, the minor and the minor's parent, legal guardian or guardian ad litem.

(3) "Commencement of trial" occurs as defined in paragraph (6) of subdivision (a) of Section 581 of the Code of Civil Procedure.

(b) Any collateral source payment paid or owed to or on behalf of a plaintiff shall be inadmissible in any action for personal injuries or wrongful death where a public entity is a defendant. However, after a verdict has been returned against a public entity that includes damages for which payment from a collateral source listed below has

already been paid or is obligated to be paid for services or benefits that were provided prior to the commencement of trial, and the total of the collateral source payments is greater than five thousand dollars ($5,000), that amount to be increased 5 percent compounded on January 1, 1989, and each January 1 thereafter, the defendant public entity may, by a motion noticed within the time set in Section 659 of the Code of Civil Procedure, request a posttrial hearing for a reduction of the judgment against the defendant public entity for collateral source payments paid or obligated to be paid for services or benefits that were provided prior to the commencement of trial. The hearing may be noticed with any motions pursuant to Sections 962 and 984 of the Government Code or Section 659 of the Code of Civil Procedure; however, the hearing shall not occur until after the determination of any motions for a new trial, for judgment notwithstanding the verdict, for remittitur, for additur, and after any mandatory settlement conference pursuant to Section 962 of the Government Code.

(c) A defendant public entity may, by interrogatory or in writing at the trial-setting conference, request from the plaintiff a list of the names and addresses of any provider of a collateral source payment affected by this section that has provided collateral source payments directly to or on behalf of the plaintiff and the amount provided to the plaintiff from each collateral source. The plaintiff shall produce the requested list within 30 days of such request. The plaintiff shall have a continuing duty to disclose to the public entity defendant the name and address of any provider of a collateral source payment affected by this section but not disclosed in plaintiff's response if that provider pays or owes collateral source payments to or on behalf of plaintiff between the time of plaintiff's response and the commencement of trial.

The public entity shall provide written notice to each provider of a collateral source payment listed by the plaintiff or identified by defendant of the date set for any pretrial settlement conference.

The provider of a collateral source shall not be required to attend a settlement conference unless requested to do so by the court. The court may request a provider of a collateral source to attend a settlement conference or to provide written information, to be available by telephone, or to otherwise participate in the conference, and a provider of a collateral source shall waive its rights to reimbursement unless it attends or otherwise complies with the request.

(d) If the plaintiff fails or refuses to supply to the defendant public entity information as to the identity of a provider of a collateral source payment, as required by this section, the defendant public entity may, upon discovery of the identity of the provider of a collateral source payment, within five years of the date of entry of judgment, request a reduction of the judgment for payment made or for services provided prior to the commencement of trial by that source. Failure of plaintiff to provide the names of collateral source

providers affected by this section and known to plaintiff, shall subject plaintiff or plaintiff's attorney to sanctions pursuant to Section 128.5 of the Code of Civil Procedure.

(e) The public entity shall also give 20 days notice to the provider of a collateral source payment of any posttrial settlement conference or hearing regarding collateral source payments under this section.

Proof of service of any notice sent pursuant to this section shall be filed with the court and a copy served on all parties to the action.

(f) At the hearing the trial court shall, in its discretion and on terms as may be just, make a final determination as to any pending lien and subrogation rights, and, subject to subdivisions (1) to (3), inclusive, determine what portion of collateral source payments should be reimbursed from the judgment to the provider of a collateral source payment, deducted from the verdict, or accrue to the benefit of the plaintiff. No provider of collateral source payments pursuant to this section shall recover any amount against the plaintiff nor shall it be subrogated to the rights of the plaintiff against a public entity defendant other than in the amount so determined by the court. The following provisions shall apply to the court's adjustments:

(1) If the court has determined that the verdict included money damages for which the plaintiff has already received payment from or had his or her expenses paid by the following collateral sources: Medi-Cal, county health care, Aid to Families with Dependent Children, Victims of Crime, or other nonfederal publicly funded sources of benefit with statutory lien rights, the court shall order reimbursement from the judgment of those amounts to the provider of a collateral source payment pursuant to this section and on terms as may be just.

(2) If the court has determined that the verdict includes money damages for which the plaintiff has already received payment from or had his or her expenses paid by the following collateral sources: private medical programs, health maintenance organizations, state disability, unemployment insurance, private disability insurance, or other sources of compensation similar to those listed in this paragraph, the court may, after considering the totality of all circumstances and on terms as may be just, determine what portion of the collateral source benefits will be reimbursed from the judgment to the provider of the collateral source payment, used to reduce the verdict, or accrue to the benefit of the plaintiff. However, nothing in this section shall create subrogation or lien rights that do not already exist.

(3) In determining the amount to be reimbursed from the judgment to a provider of a collateral source payment, or the amount by which the judgment will be reduced to account for collateral source payments, the court shall make the following adjustments:

(A) Where plaintiff has been found partially at fault, the reimbursement or reduction shall be decreased by the same percentage as the entire judgment is reduced to take into account the plaintiff's comparative fault.

(B) The court shall deduct from the reimbursement or reduction the amount of premiums the court determines were paid by or on behalf of the plaintiff to the provider of a collateral source payment.

(C) After making the adjustments described in subparagraphs (A) and (B) above, the court shall reduce that amount by a percentage equal to the percentage of the entire judgment that the plaintiff paid or owes for his or her attorney fees and costs and reasonable expenses incurred.

(g) In no event shall the total dollar amount deducted from the verdict, paid to lienholders or reimbursed to all collateral source providers, exceed one-half of the plaintiff's net recovery for all damages after deducting for attorney's fees, medical services paid by the plaintiff, and litigation costs; however, the court may order no reimbursement or verdict reduction if the reimbursement or reduction would result in undue financial hardship upon the person who suffered the injury.

(h) Unless otherwise ordered by the court, 50 percent of any amount reimbursed pursuant to this section shall be due immediately. The court may order the remaining 50 percent to be paid in installments over a period of time to be determined by the court pursuant to Section 984, not to exceed 10 years.

(i) In any case involving multiple defendants, a reduction pursuant to this section shall be proportional to the percentage of the judgment actually paid by the public entity and shall satisfy the judgment as to the portion reduced so that no other judgment debtor shall be jointly liable for the portion of the judgment reduced pursuant to this section. If, after a hearing and determination pursuant to this section, the public entity judgment debtor is required to satisfy a portion of a joint and several judgment beyond that public entity judgment debtor's several portion due to the uncollectability of a joint tortfeasor's portion, the public entity may make a motion to reduce the additional portion in an amount proportional to the determination of the court pursuant to this section.

(j) In all actions affected by this section, the court shall instruct the jury with the following language:

"You shall award damages in an amount that fully compensates plaintiff for damages in accordance with instructions from the court. You shall not speculate or consider any other possible sources of benefit the plaintiff may have received. After you have returned your verdict the court will make whatever adjustments are necessary in this regard."

(k) The Judicial Council shall adopt rules providing for a reasonable extension of the time for filing the notice of appeal from a judgment on the verdict to permit a motion for the hearing and the hearing itself.

(*l*) If the defendant public entity or defendant public employee is also a health care provider as defined in Section 3333.1 of the Civil Code, that section controls as to that defendant.

(m) This chapter does not apply to lien or subrogation rights provided in Chapter 5 (commencing with Section 3850) of Part 1 of Division 4 of the Labor Code.

SEC. 9. Section 3 of Senate Bill 1382 of the 1987–88 Regular Session is amended to read:

Sec. 3. (a) Section 1 of this act applies only to actions commenced on or after January 1, 1990.

(b) Section 2 of this act applies only to causes of action based on acts or omission occurring on or after January 1, 1988.

SEC. 10. Section 4 of Senate Bill 1598 of the 1987–88 Regular Session is amended to read:

Sec. 4. This act applies only to actions based on acts or omissions occurring on or after January 1, 1988.

SEC. 11. Sections 1 to 8, inclusive, of this act apply only to actions based upon acts or omissions occurring on or after January 1, 1988.

SEC. 12. It is the intent of the Legislature that Section 820.9 of the Government Code, added by Section 1 of this act, is a codification of, and does not constitute a change in, existing law.

SEC. 13. (a) Section 9 of this act shall become operative only if this bill and Senate Bill 1382 are enacted and this bill is enacted last.

(b) Section 10 of this act shall become operative only if this bill and Senate Bill 1598 are enacted and this bill is enacted last.

SEC. 14. This act shall become operative only if Assembly Bills 344, 1530, 1909, and 1912, and Senate Bills 23, 1382, 1526, and 1598 are all enacted and become effective on or before January 1, 1988.

CHAPTER 1209

An act to add Section 831.21 to the Government Code, relating to liability.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987]

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

SECTION 1. Section 831.21 is added to the Government Code, to read:

831.21. (a) Public beaches shall be deemed to be in a natural condition and unimproved notwithstanding the provision or absence of public safety services such as lifeguards, police or sheriff patrols, medical services, fire protection services, beach cleanup services, or signs. The provisions of this section shall apply only to natural conditions of public property and shall not limit any liability or immunity that may otherwise exist pursuant to this division.

(b) This section shall only be applicable to causes of action based upon acts or omissions occurring on or after January 1, 1988.

SEC. 2. This act shall become operative only if Assembly Bills 344,

1530, 1909, 1912, and 2616, and Senate Bills 1382, 1526, and 1598 are all enacted and become effective on or before January 1, 1988.

CHAPTER 1210

An act to add Section 56842.2 to the Government Code, and to amend Section 11005.2 of the Revenue and Taxation Code, relating to local government.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987.]

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

SECTION 1. Section 56842.2 is added to the Government Code, to read:

56842.2. Any city which was incorporated during the 1977–78 fiscal year may apply to the commission for a determination of the amount of property tax revenue to be exchanged by the affected local agency. The commission shall make the determination within 120 days following the date of the application. The commission shall make this determination in accordance with Section 54790.3 as if that section had not been repealed by Chapter 541 of the Statutes of 1985, provided that the commission shall reduce the amount determined pursuant to that section by the amount of the property tax revenues received by the city as a result of the concurrent or subsequent dissolution of special districts or the conversion of special districts into subsidiary districts. Notwithstanding any other provision of law, the amount determined pursuant to this section shall not reduce the amount of property tax revenue which a city has been receiving.

The amount of property tax revenue to be exchanged as determined pursuant to this section shall be payable to the city commencing with the fiscal year next following the fiscal year in which the determination is made.

For purposes of this section, any reference in Section 56842 to "prior fiscal year" means the 1976–77 fiscal year.

For purposes of this section, in making the calculation required by paragraph (1) of subdivision (c) of Section 56842, the county auditor shall exclude the amount of property tax revenue related to the county's share of Medi-Cal and SSI/SSP costs, the amount of property tax revenue from business inventories which was supplanted by an increased allocation of motor vehicle license fee subventions to counties pursuant to Chapter 448 of the Statutes of 1984, and the amount of property tax revenue which was used to finance health services and was supplanted by the subvention for county health services provided by Part 4.5 (commencing with Section 16700) of Division 9 of the Welfare and Institutions Code. All of the above amounts shall be excluded from both the "amount of property tax

revenue," as used in Section 56842, and the "total amount of revenue from all sources available for general purposes," as defined in Section 56842, except for the amount of property tax revenue from business inventories which shall be excluded only from the "amount of property tax revenue."

The county auditor may assess each city which makes an application for the actual costs of making the determinations required by this section and Section 56842.

SEC. 2. Section 11005.2 of the Revenue and Taxation Code is amended to read:

11005.2. Notwithstanding subdivision (b) of Section 11005, the Controller shall not allocate any revenue pursuant to paragraph (1) of that subdivision to any city which receives revenue pursuant to Section 97.3 or pursuant to Section 56842.2 of the Government Code.

SEC. 3. Section 56482.2 of the Government Code shall not apply to any city otherwise subject to that section which, as a result of any other act or acts enacted in 1987, will receive an amount of property tax revenue equal to or greater than the amount of property tax revenue which the city would receive pursuant to Section 56482.2. If any city subject to Section 56482.2 of the Government Code will receive, as a result of any other act or acts enacted in 1987, an amount of property tax revenue which is less than the amount of property tax revenue which the city would receive pursuant to Section 56482.2, the amount of property tax revenue provided to the city pursuant to that section shall be reduced by the total amount of property tax revenue provided to the city by the other act or acts.

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 1211

An act to repeal Section 1141.105 of the Code of Civil Procedure, to amend Sections 69103, 69104, 69105, 69106, 69582, 69585.5, 69586, 69587, 69590.7, 69591, 69592, 69593, 69594, 69595, 69598, 69599, 69600, 69608, 69610, 69613, 69614, 69615, 72602.3, 72602.4, 72602.5, 72602.12, 72602.20, 73101.5, 73562, 73702, 73951, 74131, 74341, 74661, 74691, 74781, 74831, 74901, 77001, 77200, 77201, 77202, 77301, and 77400 of, to add Sections 69605.5, 77002, 77206, 77207, and 77502 to, to repeal and add Section 74921 of, and Article 7 (commencing with Section 77600) of Chapter 13 of Title 8 of, and to repeal Section 77403 of, the Government Code, to amend Section 1078 of, and to add Section 1387.1 to, the Penal Code, to amend Sections 97, 98, and 11005 of, and to add Section 97.35 to, the Revenue and Taxation Code, and to amend Section 23 of Chapter 1607 of the Statutes of 1985, relating to

fiscal affairs, and making an appropriation therefor.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987.]

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

SECTION 1. Section 1141.105 of the Code of Civil Procedure is repealed.

SEC. 2. Section 69103 of the Government Code is amended to read:

69103. The Court of Appeal for the Third Appellate District consists of one division having 10 judges and shall hold its regular sessions at Sacramento.

SEC. 3. Section 69104 of the Government Code is amended to read:

69104. The Court of Appeal for the Fourth Appellate District consists of three divisions. One division shall hold its regular sessions at San Diego and shall have eight judges. One division shall hold its regular sessions in the San Bernardino/Riverside area and shall have five judges. One division shall hold its regular sessions in Orange County and shall have five judges.

SEC. 3.5. Section 69105 of the Government Code is amended to read:

69105. The Court of Appeal for the Fifth Appellate District consists of one division having nine judges and shall hold its regular sessions at Fresno.

SEC. 4. Section 69106 of the Government Code is amended to read:

69106. The Court of Appeal for the Sixth Appellate District consists of one division having six judges and shall hold its regular sessions at San Jose.

SEC. 5. Section 69582 of the Government Code is amended to read:

69582. In the County of Contra Costa there are 17 judges of the superior court.

SEC. 6. Section 69585.5 of the Government Code is amended to read:

69585.5. In the County of Kings there are three judges of the superior court.

SEC. 7. Section 69586 of the Government Code is amended to read:

69586. In the County of Los Angeles there are 224 judges of the superior court, any one or more of whom may hold court. However, 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 14 and adopts a resolution or resolutions to that effect, there shall be 224 judges of the superior court plus the additional judge or judges provided by this section, any one or more

of whom may hold court.

SEC. 8. Section 69587 of the Government Code is amended to read:

69587. In the County of Madera there are three judges.

SEC. 9. Section 69590.7 of the Government Code is amended to read:

69590.7. In the County of Nevada there are three judges of the superior court.

SEC. 10. Section 69591 of the Government Code is amended to read:

69591. In the County of Orange there are 59 judges of the superior court.

SEC. 11. Section 69592 of the Government Code is amended to read:

69592. In the County of Riverside there are 21 judges of the superior court. However, 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 21 judges of the superior court plus the additional judge or judges provided by this section.

SEC. 12. Section 69593 of the Government Code is amended to read:

69593. In the County of Sacramento there are 29 judges of the superior court. However, if the board of supervisors finds there are sufficient funds for three additional judges of the superior court and adopts a resolution to that effect, there shall be 32 judges of the superior court.

SEC. 13. Section 69594 of the Government Code is amended to read:

69594. In the County of San Bernardino there are 24 judges of the superior court. However, at such time as the Board of Supervisors of San Bernardino County finds there are sufficient funds for up to four additional judges and adopts a resolution to that effect, there shall be 25, 26, 27, or 28 judges of the superior court.

SEC. 14. Section 69595 of the Government Code is amended to read:

69595. In the County of San Diego there are 52 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 16 and adopts a resolution or resolutions to that effect, there shall be up to 68 judges of the superior court. In addition, upon the occurrence of a vacancy in the position of a juvenile court referee or referees appointed and employed pursuant to Section 69904, up to a total of three vacancies, the vacant position shall be eliminated and there shall be an additional judge of the superior court corresponding to each vacancy, up to a total of three additional judges of the superior court.

SEC. 15. Section 69598 of the Government Code is amended to read:

69598. In the County of San Joaquin there are 12 judges of the superior court. However, if the board of supervisors adopts a resolution stating that a vacancy will occur in the office of juvenile court referee upon the appointment of a thirteenth judge, there shall be 13 judges of the superior court. The referee may continue to serve until the thirteenth judge has been appointed.

SEC. 16. Section 69599 of the Government Code is amended to read:

69599. In San Mateo County there are 16 judges of the superior court. However, at such time as 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. 17. 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. However, at such time as the Santa Clara County Board of Supervisors finds that there are sufficient funds for up to 10 additional judges, and adopts a resolution or resolutions to that effect, there shall be up to 44 judges of the superior court.

SEC. 18. Section 69605.5 is added to the Government Code, to read:

69605.5. In the County of Tuolumne there shall be one judge of the superior court. However, at such time, on or after January 1, 1988, as the Board of Supervisors of the County of Tuolumne finds sufficient funds for two judges and adopts a resolution to that effect, there shall be two judges of the superior court.

SEC. 19. Section 69608 of the Government Code is amended to read:

69608. In the County of Mendocino there are three judges of the superior court.

SEC. 20. Section 69610 of the Government Code is amended to read:

69610. In the County of Yolo there are four judges of the superior court.

SEC. 21. Section 69613 of the Government Code is amended to read:

69613. In the County of San Luis Obispo there are four judges of the superior court. However, if the board of supervisors finds there are sufficient funds for an additional judge and adopts a resolution to that effect, there shall be five judges of the superior court.

SEC. 22. Section 69614 of the Government Code is amended to read:

69614. In the County of Santa Cruz there are four judges of the superior court. However, if the board of supervisors finds that there are sufficient funds for an additional judge and adopts a resolution to that effect, there shall be five judges.

SEC. 23. Section 69615 of the Government Code is amended to read:

69615. In the County of Sutter there are three judges of the

superior court.

SEC. 24. Section 72602.3 of the Government Code is amended to read:

72602.3. In addition to the number of judges prescribed by Section 72602, there shall be one additional judge for the South Bay Municipal Court District. However, at such time as the Los Angeles County Board of Supervisors finds there are sufficient funds for up to three additional judges for the South Bay Municipal Court District and adopts a resolution to that effect, there shall be up to three additional judges for the South Bay Municipal Court District.

SEC. 25. 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 24 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. 26. Section 72602.5 of the Government Code is amended to read:

72602.5. (a) In addition to the number of judges specified in Section 72602, there are two judges for the Antelope Municipal Court District. However, at such time as the Los Angeles County Board of Supervisors finds there are sufficient funds for an additional judge for the Antelope Municipal Court District and adopts a resolution or resolutions to that effect, there shall be an additional judges for the Antelope Municipal Court District.

SEC. 27. Section 72602.12 of the Government Code is amended to read:

72602.12. (a) In addition to the number of judges specified in Section 72602, there shall be one additional judge in the East Los Angeles Municipal Court District. However, at such time as the Los Angeles County Board of Supervisors finds there are sufficient funds for an additional judge for the East Los Angeles Municipal Court District and adopts a resolution to that effect, there shall be an additional judge for the East Los Angeles Municipal Court District.

(b) The judges of the East Los Angeles Municipal Court District may appoint one special assistant, East Los Angeles Municipal Court, who shall be entitled to the same benefits as, and receive a monthly salary at the same rate specified for, the clerk-administrative officer of such court.

SEC. 28. Section 72602.20 of the Government Code is amended 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 up to three additional judges for the Compton Municipal Court District and adopts a resolution or resolutions to that effect, there shall be a total of up to

three additional judges for the Compton Municipal Court District. 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 three 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. 29. Section 73101.5 of the Government Code is amended to read:

73101.5. There shall be the following number of judges in divisions of the San Bernardino County Municipal Court District:

(a) In the East Division, two.

(b) In the Central Division, six. However, at such time as the board of supervisors find there are sufficient funds for an additional judge for the Central Division, and adopts a resolution to that effect, there shall be seven judges for the Central Division.

(c) In the Valley Division, two. However, at such time as the board of superviors finds there are sufficient funds for an additional judge for the Valley Division, and adopts a resolution to that effect, there shall be three judges for the Valley Division.

(d) In the West Valley Division, six. However, at such time as the board of supervisors finds there are sufficient funds for an additional judge for the West Valley Division, and adopts a resolution or resolutions to that effect, there shall be seven judges for the West Valley Division.

(e) In the Victorville Division, two.

(f) In the Barstow Division, one. However, at such time as the board of supervisors finds there are sufficient funds for an additional judge for the Barstow Division, and adopts a resolution to that effect, there shall be two judges for the Barstow Division.

(g) In the Chino Division, one. However, at such time as the board of supervisors finds there are sufficient funds for an additional judge for the Chino Division, and adopts a resolution to that effect, there shall be two judges for the Chino Division.

(h) In the Morongo Basin Division, one.

SEC. 30. Section 73562 of the Government Code is amended to read:

73562. There shall be nine judges of the Monterey County Municipal Court District. However, if the board of supervisors finds there are sufficient funds for an additional judge and adopts a resolution to that effect, there shall be 10 judges.

SEC. 31. Section 73702 of the Government Code is amended to read:

73702. There shall be three judges.

SEC. 32. Section 73951 of the Government Code is amended to read:

73951. There are 10 judges. However, at such time as the board of supervisors finds there are sufficient funds for an additional judge and adopts a resolution to that effect, there shall be 11 judges.

SEC. 33. Section 74131 of the Government Code is amended to read:

74131. There shall be seven judges in the Riverside Judicial District, which shall include the City of Riverside.

(b) There are seven judges in the Desert Judicial District, which shall include the Cities of Palm Springs, Indio, and Blythe.

(c) There are two judges in the Corona Judicial District, which shall include the City of Corona.

(d) There are three judges in the Mt. San Jacinto Judicial District, which shall include the Cities of Hemet, San Jacinto, Beaumont, and Banning. However, 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.

(e) There are two judges in the Three Lakes Judicial District.

SEC. 34. Section 74341 of the Government Code is amended to read:

74341. There are 25 judges. However, at such time as the board of supervisors finds there are sufficient funds and space available for up to three additional judges and adopts a resolution to that effect, there shall be up to 28 judges.

SEC. 35. Section 74661 of the Government Code is amended to read:

74661. There are 26 judges for the Santa Clara County Judicial District. However, at such time as the Santa Clara County Board of Supervisors finds that there are sufficient funds to provide for up to nine additional judges and adopts a resolution or resolutions to that effect. There shall be up to 35 judges.

SEC. 36. Section 74691 of the Government Code is amended to read:

74691. There are four judges. However, if the board of supervisors finds there are sufficient funds for an additional judge and adopts a resolution to that effect, there shall be five judges.

SEC. 37. Section 74781 of the Government Code is amended to read:

74781. There are eight judges.

SEC. 37.5. Section 74831 of the Government Code is amended to read:

74831. There are two judges.

SEC. 38. Section 74901 of the Government Code is amended to read:

74901. There are 11 judges. However, at such time as the board

of supervisors finds there are sufficient funds for an additional judge and adopts a resolution to that effect, there shall be 12 judges.

SEC. 39. Section 74921 of the Government Code is repealed.

SEC. 40. Section 74921 is added to the Government Code, to read:

74921. There shall be the following number of judges in each of the municipal court districts in Tulare County:

(a) In the Visalia Judicial District, there are three judges.

(b) In the Porterville Judicial District, is one judge. However, at such time as the board of supervisors finds there are sufficient funds for an additional judge and adopts a resolution to that effect there shall be two judges.

(c) In the Tulare-Pixley Judicial District, there is one judge. However, at such time as the board of supervisors finds there are sufficient funds for an additional judge and adopts a resolution to that effect, there shall be two judges.

SEC. 41. Section 77001 of the Government Code is amended to read:

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, those deputy marshals and sheriffs as the court deems necessary for court operations, court-appointed counsel in juvenile court dependency proceedings, 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. However, in a county with a population of 350,000 or less, to the extent that the block grant for a given fiscal year exceeds the 1987–88 funding level for the trial courts in that county, as adjusted by the current consumer price index, "court operations" includes probation services, indigent criminal defense, and pretrial release services.

(d) "Filing fees" means any and all fees and charges, liberally construed, collected or collectible for filing, processing, including service of process, 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 county, but not a city and county, including any penalty assessments or surcharges, whether collected by a court or agency of a 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. Nothing in this subdivision shall be construed to characterize civil penalties awarded or received in environmental, antitrust, or consumer protection actions brought by the people as a fine.

(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 county, but not a 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 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 county, but not a 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.

SEC. 41.5. Section 77002 is added to the Government Code, to read:

77002. Nothing in this chapter shall be deemed to change the practice of employer-employee relations with respect to trial court personnel in an option country.

SEC. 41.7. Section 77200 of the Government Code is amended to read:

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 eighty thousand dollars ($480,000) for each superior court judgeship; plus

(b) Four hundred sixty-eight thousand dollars ($468,000) for each

superior court commissioner or referee; plus

(c) Four hundred seventy-four thousand dollars ($474,000) for each municipal court judgeship; plus

(d) Four hundred fifty-five thousand dollars ($455,000) for each municipal court commissioner or referee; plus

(e) Four hundred seventy-four thousand dollars ($474,000) for each full-time justice court judgeship, or, with respect to each part-time justice court judgeship, such percentage of that amount as equals the proportion of a full-time work week spent exercising the duties of justice court judge.

SEC. 42. Section 77201 of the Government Code is amended to read:

77201. The sums set forth in Section 77200 shall be adjusted 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 years, as determined by the Controller, or by the percentage increase or decrease in the total amount of fees, fines, and forfeitures transmitted to the state in the immediately preceding fiscal year compared to the fiscal year before that, whichever results in a lower block grant. This adjustment shall be cumulative but not compounded beginning with an adjustment for the 1987–88 fiscal year based on the 1986–87 state employees adjustment.

SEC. 42.2. Section 77202 of the Government Code is amended to read:

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 commissioners and referees authorized by statute, funded, and reported to the Judicial Council on or before January 1, 1987, plus any such positions thereafter created, or specifically authorized, by statute.

(b) 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.

(c) 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.

SEC. 42.5. Section 77206 is added to the Government Code, to

read:

77206. A decision by an option county to opt into the system constitutes an agreement by the county that the appropriation limit of the state shall be increased and the appropriation limit of the county shall be decreased, during the period of participation, to reflect the transfer to the state of financial responsibility for court services funded by the proceeds of taxes. The change in the appropriation limits shall be determined by the Controller for the county's initial year of participation by the amount that the reimbursement under this chapter that is an appropriation subject to limitation exceeds the reimbursement that would have been provided to the county by the state from appropriations subject to limitation if this chapter was not applied to the county. If the option county ceases to participate, the appropriation limits of the state and county shall revert to the amounts that would have been applicable if no adjustment had been made under this section.

SEC. 42.7. Section 77207 is added to the Government Code, to read:

77207. (a) There is in the State Treasury the Trial Court Improvement Fund.

(b) The sum of twenty million dollars ($20,000,000) shall be appropriated annually in the Budget Act from the Court Funding Trust Account to the Trial Court Improvement Fund for purposes of this section. Of that sum, any funds unencumbered at the end of that fiscal year shall revert to the Court Funding Trust Account.

(b) Funds appropriated to the Trial Court Improvement Fund shall be disbursed to option counties through grants administered by the Judicial Council to improve court management and efficiency, case processing, and speedy trials as provided in subdivision (c).

(c) These funds shall be allocated or reallocated by order of the Judicial Council to trial courts for equipment, personnel, education, demonstration projects, research, programs, and facilities, to improve trial court operations. However, any allocation or reallocation by the Judicial Council shall be reported to the Director of Finance. Not more than fifty percent of the annual Trial Court Improvement Fund allocation may be used for court facilities construction.

Allocations for court facilities construction shall be based upon use of trial court improvement funds in an amount not to exceed seventy percent, and a local contribution not less than thirty percent, of the total cost of the project.

(d) Moneys in the Trial Court Improvement Fund shall be disbursed to option counties for allocation to trial courts annually beginning January 1, 1989, pursuant to procedures adopted by the Judicial Council.

(e) The Judicial Council shall present an annual report to the Legislature on the use of the Trial Court Improvement Fund. The report shall include appropriate recommendations.

SEC. 42.9. Section 77301 of the Government Code is amended to

read:

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, or if there is no such municipal court district, the judge of the justice court district in which the county seat is located; 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, or if there is no municipal court district in which the county seat is located, the judges of the justice courts, in the county requests state funding.

SEC. 43. Section 77400 of the Government Code is amended to read:

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 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.

SEC. 44. Section 77403 of the Government Code is repealed.

SEC. 45. Section 77502 is added to the Government Code, to read:

77502. This article does not apply to an option county that is a city and county.

SEC. 46. Article 7 (commencing with Section 77600) of Chapter 13 of Title 8 of the Government Code is repealed.

SEC. 47. Article 7 (commencing with Section 77600) is added to Chapter 13 of Title 8 of the Government Code, to read:

Article 7. Severability

77600. If any portion of this chapter is declared to be unconstitutional or void, the entire chapter shall become inoperative.

SEC. 47.1. Section 1078 of the Penal Code is amended to read:

1078. (a) It shall be the duty of the trial court to examine the prospective jurors to select a fair and impartial jury. Except as provided in subdivision (b), he or she shall permit reasonable examination of prospective jurors by counsel for the people and for the defendant, such examination to be conducted orally and directly by counsel.

(b) As a pilot project applicable solely to the superior courts in Fresno and Santa Cruz Counties during the period July 1, 1988, to June 30, 1991, inclusive, all questions designed solely for assisting in the intelligent exercise of the right to peremptory challenge and not applicable to the determination of bias pursuant to Section 1073 or

1074, shall be propounded by the court. If such a question is requested by the prosecution or by counsel for the defense and is one of the standardized questions developed by the Task Force on Voir Dire, the court shall propound the question unless the court determines that the question is clearly inappropriate. If a nonstandardized question is proposed by the prosecution or by counsel for the defense, the court may propound the question in its discretion.

(c) The Task Force on Voir Dire shall consist of eight members who shall serve without compensation, two of whom shall be appointed by the Judicial Council, two by the Governor, two by the Speaker of the Assembly, and two by the Senate Rules Committee. All appointees shall have been members of the State Bar for at least five years prior to their appointment. The Judicial Council may provide staff to assist the task force.

All appointments to the Task Force on Voir Dire shall be made on or before March 1, 1988. The task force shall submit to the pilot project counties a list of standardized questions which meet the purposes of subdivision (b) on or before July 1, 1988.

(d) On or before January 1, 1992, the Judicial Council shall report to the Legislature on the effects of the pilot project on the efficiency in jury selection and on any effect on the conviction rate for particular crimes compared to a similar prior period in each pilot project county.

SEC. 47.2. Section 1078 of the Penal Code, as amended by Assembly Bill 631 of the 1987–88 Regular Session, is amended to read:

1078. (a) (1) It shall be the duty of the trial court to examine the prospective jurors to select a fair and impartial jury. Except as provided in subdivision (b), the trial court shall permit reasonable examination of prospective jurors by counsel for the people and for the defendant, such examination to be conducted orally and directly by counsel.

(2) In each case it shall be the duty of the trial judge to provide for a voir dire process as speedy, focused, and informative as possible, and to protect prospective jurors from undue harassment and embarrassment and from inordinately extensive, repetitive, or unfocused examinations.

(3) In discharging its duties, the court shall have discretion and control with respect to the form and subject matter and duration of voir dire examination. In exercising that discretion and control, the trial judge shall be guided by, among other criteria, the following:

(i) The nature of the charges and the potential consequences of a conviction.

(ii) Any unique or complex elements, legal or factual, in the case.

(iii) The individual responses or conduct of jurors which may reveal attitudes inconsistent with suitability to serve as a fair and impartial juror in the particular case.

(iv) The attorneys' need, under the circumstances, for information on which to exercise peremptory challenges

intelligently.

(4) The trial court shall not permit questions which the trial court concludes would, as their sole purpose, do any of the following:

(i) Educate the jury panel to the particular facts of the case.

(ii) Compel the jurors to commit themselves to vote in a particular way.

(iii) Prejudice the jury for or against any party.

(iv) Argue the case.

(v) Indoctrinate the jury.

(vi) Instruct the jury in a matter of law.

(vii) Attempt to accomplish any other improper purpose.

(5) The trial court shall require that questions be phrased by counsel in a neutral and nonargumentative form.

(b) As a pilot project applicable solely to the superior courts in Fresno and Santa Cruz Counties during the period July 1, 1988, to June 30, 1991, inclusive, all questions designed solely for assisting in the intelligent exercise of the right to peremptory challenge and not applicable to the determination of bias pursuant to Section 1073 or 1074, shall be propounded by the court. If such a question is requested by the prosecution or by counsel for the defense and is one of the standardized questions developed by the Task Force on Voir Dire, the court shall propound the question unless the court determines that the question is clearly inappropriate. If a nonstandardized question is proposed by the prosecution or by counsel for the defense, the court may propound the question in its discretion.

(c) The Task Force on Voir Dire shall consist of eight members who shall serve without compensation, two of whom shall be appointed by the Judicial Council, two by the Governor, two by the Speaker of the Assembly, and two by the Senate Rules Committee. All appointees shall have been members of the State Bar for at least five years prior to their appointment. The Judicial Council may provide staff to assist the task force.

All appointments to the Task Force on Voir Dire shall be made on or before March 1, 1988. The task force shall submit to the pilot project counties a list of standardized questions which meet the purposes of subdivision (b) on or before July 1, 1988.

(d) On or before January 1, 1992, the Judicial Council shall report to the Legislature on the effects of the pilot project on the efficiency in jury selection and on any effect on the conviction rate for particular crimes compared to a similar prior period in each pilot project county.

SEC. 47.5. Section 1387.1 is added to the Penal Code, to read:

1387.1. (a) Where an offense is a violent felony, as defined in Section 667.5 and the prosecution has had two prior dismissals, as defined in Section 1387, the people shall be permitted one additional opportunity to refile charges where either of the prior dismissals under Section 1387 were due solely to excusable neglect. In no case shall the additional refiling of charges provided under this section be

permitted where the conduct of the prosecution amounted to bad faith.

(b) As used in this section, "excusable neglect" includes, but is not limited to, error on the part of the court, prosecution, law enforcement agency, or witnesses.

SEC. 47.6. Section 97 of the Revenue and Taxation Code is amended to read:

97. Except as otherwise provided in Sections 97.3, 97.32, and 97.35, 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. 47.7. Section 97.35 is added to the Revenue and Taxation Code, to read:

97.35. (a) In each county having within its boundaries a qualifying city, as defined in subdivision (d), the computations made pursuant to Section 97, for the 1988–89 fiscal year only, shall be modified as follows:

With respect to tax rate areas within the boundaries of a qualifying city, there shall be excluded from the aggregate amount of "property tax revenue allocated pursuant to this chapter to local agencies, other than for a qualifying city, in the prior fiscal year," an amount equal to the sum of the amounts calculated pursuant to the TEA formula, as defined in subdivision (c).

(b) (1) Except as otherwise provided in subdivision (f) and (g), each qualifying city shall for the 1988–89 fiscal year only, be allocated by the auditor an amount determined pursuant to the TEA formula, as defined in subdivision (c).

(2) Except as otherwise provided in subdivisions (f) and (g), for each qualifying city, the auditor shall distribute the amount determined pursuant to the TEA formula to all tax rate areas within that city in proportion to each tax rate area's share of the total 1987–88 assessed value in the city, and the amount so determined shall be subtracted correspondingly from the county's proportionate share of property tax revenue within those tax rate areas.

(3) After making the allocations pursuant to paragraphs (1) and (2), but before making the calculations pursuant to Section 98, the auditor shall, for all tax rate areas in the qualifying city, calculate the proportionate share of property tax revenue allocated pursuant to this section, without regard to subdivision (f), and Section 97 in the 1988–89 fiscal year to each jurisdiction in the tax rate area.

(4) In lieu of making the allocations of annual tax increment pursuant to subdivision (e) of Section 98, the auditor shall for the 1988–89 fiscal year only, allocate the amount of property tax revenue determined pursuant to subdivision (d) of Section 98 to jurisdictions in the tax rate area using the proportionate shares derived pursuant to paragraph (3).

(5) For purposes of the calculations made pursuant to Section 97, in the 1989–90 fiscal year and fiscal years thereafter, the amounts that would have been allocated to qualifying cities pursuant to this subdivision (notwithstanding any deduction made pursuant to subdivision (e)), without the application of subdivision (f), shall be deemed to be the "amount of property tax revenue allocated pursuant to this chapter in the prior fiscal year."

(c) "TEA formula" means the Tax Equity Allocation formula, and shall be calculated by the auditor by applying a tax rate of ten cents ($0.10) per one hundred dollars ($100) of assessed value to the 1987–88 assessed value of the qualifying city. However, when the auditor determines that the amount computed pursuant to this subdivision would result in a qualifying city having proceeds of taxes in excess of its appropriations limit, the auditor shall reduce that amount accordingly.

(d) "Qualifying city" means either of the following:

(1) Any city, except a qualifying city as defined in subdivision (d) of Section 97.3, which incorporated prior to June 5, 1978, but did not levy a property tax in the 1977–78 fiscal year.

(2) Any city which incorporated prior to June 5, 1987, and had an amount of property tax revenue allocated to it pursuant to subdivision (a) of Section 97 in the 1987–88 fiscal year which is less than an amount which would have been received by applying a tax rate of ten cents ($0.10) per one hundred dollars ($100) of assessed value to the 1987–88 assessed value of that city.

(e) The auditor may assess each qualifying city its proportional share of the actual costs of making the calculations required by this section, and may deduct that assessment from the amount allocated pursuant to subdivision (b), as modified by subdivision (f). For purposes of this subdivision, a qualifying city's proportional share of

the auditor's actual costs shall not exceed the proportion it receives of the total amounts excluded in the county pursuant to subdivision (a).

(f) Notwithstanding any other provision of this section, of the actual amount determined pursuant to the TEA formula, as defined in subdivision (c), for each qualifying city, as defined in subdivision (d), the auditor shall distribute only the following percentages of that amount to the tax rate areas in each qualifying city, except as otherwise provided in paragraph (11):

(1) Ten percent of the amount determined pursuant to subdivisions (b) and (c) for the first fiscal year in which the qualifying city receives an allocation pursuant to this section.

(2) Twenty percent of the amount determined pursuant to subdivisions (b) and (c) for the second fiscal year in which the qualifying city receives an allocation pursuant to this section.

(3) Thirty percent of the amount determined pursuant to subdivisions (b) and (c) for the third fiscal year in which the qualifying city receives an allocation pursuant to this section.

(4) Forty percent of the amount determined pursuant to subdivisions (b) and (c) for the forth fiscal year in which the qualifying city receives an allocation pursuant to this section.

(5) Fifty percent of the amount determined pursuant to subdivisions (b) and (c) for the fifth fiscal year in which the qualifying city receives an allocation pursuant to this section.

(6) Sixty percent of the amount determined pursuant to subdivisions (b) and (c) for the sixth fiscal year in which the qualifying city receives an allocation pursuant to this section.

(7) Seventy percent of the amount determined pursuant to subdivisions (b) and (c) for the seventh fiscal year in which the qualifying city receives an allocation pursuant to this section.

(8) Eighty 80 percent of the amount determined pursuant to subdivisions (b) and (c) for the eighty fiscal year in which the qualifying city receives an allocation pursuant to this section.

(9) Ninety percent of the amount determined pursuant to subdivisions (b) and (c) for the ninth fiscal year in which the qualifying city receives an allocation pursuant to this section.

(10) One hundred percent of the amount determined pursuant to subdivision (b) and (c) for the tenth fiscal year and each fiscal year thereafter in which the qualifying city receives an allocation pursuant to this section.

(11) Notwithstanding paragraphs (1) to (10), inclusive, no qualified city, as defined in subdivision (d), shall be allocated an amount pursuant to this subdivision which is less than the amount the qualifying city would have been allocated without the application of the TEA formula.

The amount not distributed as a result of this subdivision to the tax rate areas in each qualifying city, as defined in subdivision (d), shall be allocated by the auditor to the county.

Nothing in this subdivision shall be construed as affecting the

calculations or allocations required by paragraphs (3) to (5), inclusive, of subdivision (b).

(g) A qualifying city, as defined in subdivision (d), shall not receive an allocation pursuant to this section in the 1988–89 fiscal year or in any succeeding fiscal year with respect to which the county in which the qualfying city is located has failed to notify the state pursuant to Sections 77300 and 77301 of the Government Code of the county's intent to opt into the system established by the Trial Court Funding Act of 1985 for that fiscal year.

(h) Each qualifying city shall receive its first fiscal year allocation pursuant to this section in the first fiscal year with respect to which the county in which it is located has notified the state of its intent to opt into the system. The amount of the allocation, determined pursuant to subdivisions (b) and (c), shall be subject to the limitations in paragraphs (1) and (11) of subdivision (f). Thereafter, for each subsequent fiscal year in which a qualifying city received an allocation pursuant to this section, the amount of that allocation, determined pursuant to subdivisions (b) and (c), shall be subject to that limitation contained in paragraph (2), (3), (4), (5), (6), (7), (8), (9), or (10) of subdivision (f) which corresponds to the number of fiscal years the qualifying city has received the allocation and the limitation contained in paragraph (11) of subdivision (f).

SEC. 47.8. 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 in the 1984–85 fiscal year only, in subdivision (d) of Section 97.32 in the 1985–86 fiscal year only, and in paragraph (4) of subdivision (b) of Section 97.35 in the 1988–89 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. 47.9. Section 11005 of the Revenue and Taxation Code is amended to read:

11005. (a) After payment of refunds therefrom and after making the deductions authorized by Section 11003 and reserving the amount determined necessary by the Pooled Money Investment

Board to meet the transfers ordered or proposed to be ordered pursuant to Section 16310 of the Government Code, 81.25 percent of the balance of all motor vehicle license fees and any other money appropriated by law for expenditure pursuant to this section and deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund and remaining unexpended therein at the close of business on the last day of the calendar month shall be allocated by the Controller by the 10th day of the following month in the manner provided by subdivisions (c) and (d).

(b) Eighteen and three-quarters percent of the balance shall be allocated each month to counties and cities and counties, as follows: an amount for each county and city and county equal to the revenue received in the 1982–83 fiscal year pursuant to former Section 16111, subdivision (c) of former Section 16113, and former Section 16113.7 of the Government Code. These amounts shall be determined by the Controller with the concurrence of the Director of Finance. The Controller shall allocate any remaining amount determined pursuant to this subdivision to counties and cities and counties in the proportion that the population of each county or city and county bears to the total population of all the counties and cities and counties of the state, as determined pursuant to subdivision (d).

(c) Fifty percent of the payments required by subdivision (a) shall be paid to the cities and cities and counties of this state in the proportion that the population of each city or city and county bears to the total population of all cities and cities and counties in this state, as determined by the population research unit of the Department of Finance. For the purpose of this subdivision, the population of each city or city and county is that determined by the last federal decennial or special census, or a subsequent census validated by the population research unit or subsequent estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code. In the case of a city incorporated subsequent to the last federal census, or a subsequent census validated by the population research unit, the population research unit shall determine the population of the city. In the case of unincorporated territory being annexed to a city subsequent to the last federal census, or a subsequent census validated by the population research unit, the population research unit shall determine the population of the annexed territory by the use of any federal decennial or special census, or estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code. In the case of the consolidation of one city with another subsequent to the last federal census, or a subsequent census validated by the population research unit, the population of the consolidated city, for the purpose of this subdivision, is the aggregate population of the respective cities as determined by the last federal census, or a subsequent census or estimate validated by the population research unit.

(d) Fifty percent of the payments required by subdivision (a) shall be paid to the counties and cities and counties of the state in the

proportion that the population of each county or city and county bears to the total population of all the counties and cities and counties of the state, as determined by the population research unit. For the purpose of this subdivision, the population of each county or city and county is that determined by the last federal census, or subsequent census validated by the population research unit, or as determined by Section 11005.6.

(e) Money disbursed by the Controller to cities and counties pursuant to this section may be used for county or city purposes and may, but need not necessarily, be used for purposes of general interest and benefit to the state.

(f) Population changes based on a federal special census or a subsequent census validated by the Department of Finance shall be accepted by the Controller only if certified to him at the request of the city, city and county, or county for which the census was made and shall become effective on the first day of the month following receipt of the certification.

SEC. 48. Section 23 of Chapter 1607 of the Statutes of 1985 is amended, to read:

Sec. 23. Sections 2 and 21 of this act shall become operative on July 1, 1988.

SEC. 49. Section 1 of this act shall become operative on July 1, 1988.

SEC. 50. Sections 5 to 40, inclusive, of this act shall become individually operative only upon (a) the Trial Court Funding Act of 1985 becoming operative, and (b) the notification to the state by the county affected by that particular section of its intent to opt into the system under that act, as specified in Sections 77300 and 77301 of the Government Code, but (c) in the event (a) and (b) both occur prior to July 1, 1988, the section affected shall become operative July 1, 1988.

SEC. 50.1. Sections 41 to 47, inclusive, of this act shall become operative on July 1, 1988.

SEC. 50.5. Section 47.2 of this bill incorporates amendments to Section 1078 of the Penal Code proposed by both this bill and Assembly Bill 631. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1988, (2) each bill amends Section 1078 of the Penal Code, and (3) this bill is enacted after Assembly Bill 631, in which case Section 47.1 of this bill shall not become operative.

SEC. 51. No reimbursement is required by Sections 4 to 40, inclusive, of 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. 52. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that Section 1 of this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made

pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 53. No reimbursement is required by Sections 47.6 to 47.8, inclusive, of 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 1212

An act to add Section 1526.75 to the Health and Safety Code, to amend Sections 11460, 11462, 11462.1, 11462.2, and 11462.7 of, to add Sections 11462.6 and 11463.5 to, and to repeal Section 11462.3 of, the Welfare and Institutions Code, relating to public assistance.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987.]

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

SECTION 1. It is the intent of the Legislature in passing this measure to assure proper expenditure of and accountability for funds appropriated for the care of foster children. The Legislature believes that better compliance with federal and state fiscal standards will result from more rigorous auditing and overpayment recovery efforts, and from a better understanding of the standards and regulations by providers of services to foster children.

It is the intent of the Legislature that the State Department of Social Services ensure that group home providers know the rules and standards for ratesetting, the standards of allowability and reasonableness of expenditure, and auditing standards and protocols. In addition to providing the written standards pursuant to Section 11462.7, the department is encouraged to provide a program of orientation and training for providers.

New standards, if any, created by this act shall not be retroactively applied to previous expenditures of providers or prior actions by the department.

SEC. 2. Section 1526.75 is added to the Health and Safety Code, to read:

1526.75. (a) It is the intent of the Legislature to maintain quality resources for children needing placement away from their families. If, during a periodic inspection or an inspection pursuant to Section 1526.5, a facility is found out of compliance with one or more of the licensing standards of the department, the department shall, unless an ongoing investigation precludes it, advise the provider of the

noncompliance as soon as possible. The provider shall be given the opportunity to correct the deficiency.

(b) The department shall implement a procedure whereby citations for noncompliance may be appealed and reviewed.

(c) Nothing in this section shall preclude the department from taking any action it may deem necessary to ensure the safety of children and adults placed in any facility.

SEC. 3. Section 11460 of the Welfare and Institutions Code is amended to read:

11460. (a) It is the intent of the Legislature that rates paid providers on behalf of children placed in foster care shall be determined in accordance with Section 11462, 11462.1, 11462.2, 11463 or 11464. These rates shall be paid for care and supervision of children receiving assistance under the AFDC-FC program.

(b) The department is designated the single organizational unit whose duty it shall be to administer a state system for establishing rates in the AFDC-FC program. State functions shall be performed by the department or by delegation of the department to county welfare departments. The department may contract with an appropriate public or private audit agency for the performance of audits of payments made to AFDC-FC providers.

SEC. 4. Section 11462 of the Welfare and Institutions Code is amended to read:

11462. (a) For children receiving AFDC-FC under the provisions of this chapter who are placed in group homes, or public child care institutions, as defined in Section 11402.5, there shall be a rate established based on actual allowable costs.

(b) (1) As used in this section, "allowable costs" means: (A) the reasonable cost of, and the cost of providing food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation; (B) reasonable cost of administration and operation necessary to provide the items described in paragraph (A); and (C) reasonable activities performed by social workers employed by group home providers which are not otherwise allowable as daily supervision or as the costs of administration.

(2) The director, with the advice and assistance of the counties and representatives of group home providers, shall have the authority to define reasonableness as he or she determines it to be necessary and appropriate, for paragraph (1) of this subdivision.

(c) General unrestricted or undesignated private charitable donations and contributions made to charitable or nonprofit organizations shall not be deducted from the cost of providing services pursuant to this section.

(d) The department shall develop regulations specifying the procedure for the appeal of department decisions about an agency's allowable costs or the setting of an agency's rate.

(e) The department shall implement a plan whereby AFDC-FC payment rates shall be effectively controlled. The department shall,

(g) Medi-Cal eligibility determination activities are undertaken by counties on behalf of the department. Reasonable and necessary costs incurred by counties relating to such eligibility determination activities shall be recognized as costs incurred by the state for purposes of inclusion in the nonfederal share of Medi-Cal eligibility determination expenditures for claiming federal financial participation.

(h) Subdivision (e) shall not apply to agreements between the department and a county executed prior to the effective date of this section.

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

To clarify the ambiguities relating to certain county costs incurred in processing Medi-Cal applications for various fiscal years, and to ensure that federal financial participation be pursued and obtained whenever possible, it is necessary that this act take effect immediately.

CHAPTER 1228

An act to amend Sections 214 and 214.9 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987.]

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

SECTION 1. Section 214 of the Revenue and Taxation Code is amended to read:

214. (a) Property used exclusively for religious, hospital, scientific, or charitable purposes owned and operated by community chests, funds, foundations or corporations organized and operated for religious, hospital, scientific, or charitable purposes is exempt from taxation if:

(1) The owner is not organized or operated for profit. However, in the case of hospitals, the organization shall not be deemed to be organized or operated for profit, if during the immediate preceding fiscal year the excess of operating revenues, exclusive of gifts, endowments and grants-in-aid, over operating expenses has not exceeded a sum equivalent to 10 percent of those operating expenses. As used herein, operating expenses shall include depreciation based on cost of replacement and amortization of, and interest on, indebtedness.

(2) No part of the net earnings of the owner inures to the benefit of any private shareholder or individual.

placement in a group home which is licensed and located outside of this state, the rate shall be the group home rate established by the rate-setting authority of the state in which the facility is located.

(b) The department shall perform, or have performed, audits of all group homes which receive funds, pursuant to subdivision (a), on behalf of children receiving assistance under the AFDC-FC program no less often than every three years. This requirement shall apply to any group home receiving funds pursuant to subdivision (a) which the department determines has had five or more AFDC-FC children in placement during any one fiscal year.

(c) The placing agency shall determine the group home rate paid to the facility by the state in which the facility is located, and shall notify the department of the rate.

SEC. 6. Section 11462.2 of the Welfare and Institutions Code is amended to read:

11462.2. (a) Notwithstanding Section 11462, when the director determines that a rate established pursuant to that section for a multistate group home facility which operates in more than two states and which provides high impact adventure programs and which first offered these programs in the State of Arizona, is less than the established national rate for the multistate group home facility, and when the director determines that the multistate group home facility is otherwise licensed but would not be available due to the operation of Section 11462, the director may at his or her discretion establish a rate comparable to the rate paid in other states.

(b) When the director establishes a rate pursuant to this section, the facility shall be subject to audits by the department, or other public or private audit agency with which the department contracts, no less often than every three years.

SEC. 7. Section 11462.3 of the Welfare and Institutions Code is repealed.

SEC. 8. Section 11462.6 is added to the Welfare and Institutions Code, to read:

11462.6. (a) The department shall perform or have performed an audit at least once every three years, beginning January 1, 1988, on group homes which received funds on behalf of children receiving assistance under the AFDC-FC program. The department or its agent may audit group homes more frequently if misuse of funds has occurred or is apparent.

(b) The department or other public or private audit agency with which the department contracts shall coordinate with the department's licensing and ratesetting entities so that a consistent set of standards, rules, and auditing protocols are maintained. The department or other public or private audit agency with which the department contracts shall, no later than January 1, 1988, make available to all group home providers, in writing, any standards, rules, and auditing protocols to be used in such audits which exceed those provided by the department pursuant to Section 11462.7.

(c) The department shall develop and maintain a system for the

recovery of overpayments. The department shall seek recovery of unauthorized funds but it shall attempt to do so in a manner which would not jeopardize overall availability of placements for foster children. Nothing in this subdivision shall preclude the department from revoking the license of, or initiating legal procedures against, a provider who violates relevant laws and regulations.

(d) The department shall provide exit interviews with providers wherein deficiencies found are explained and the opportunity exists for providers to respond.

(e) The department shall develop regulations specifying the procedure for the appeal of audit findings.

SEC. 9. Section 11462.7 of the Welfare and Institutions Code is amended to read:

11462.7. (a) The Legislature finds and declares that group home providers are often unclear or uncertain about the standards used by the department to do the following:

(1) Set rates.

(2) Determine the allowability and reasonableness of expenditures.

(3) Audit the expenditures upon which rates are based.

(b) The department shall, no later than July 1, 1988, make available to all group home providers, in writing, its standards which are currently in use to do the following:

(1) Set rates, including, but not limited to, the criteria and factors used to establish peer groups.

(2) Determine which costs are allowable and reasonable.

(3) Audit expenditures pursuant to Section 11462.6.

(c) Effective July 1, 1986, the department shall not apply or enforce standards with regard to the reasonableness of expenditures pursuant to Section 11462 that are not made available to group home providers, in writing, prior to the beginning of the period for which a rate is established.

(d) The department shall consult with representatives of group home providers concerning the development of those standards and the modification of existing standards. Group home providers shall receive written notice of, and have the opportunity to comment upon, new and modified standards proposed by the department.

(e) The department shall make available to group home providers, in writing, any new or modified standards prior to the beginning of the period upon which a rate is calculated, if possible, or as quickly as it is administratively practical to do so. Notwithstanding subdivisions (b), (c), and (d), in the event of an unanticipated circumstance or unusual expenditure, the department may exercise its discretion in interpreting what is an allowable or a reasonable expenditure. However, the department shall make those interpretations available to group home providers, in writing, as quickly as it is practical to do so.

SEC. 10. Section 11463.5 is added to the Welfare and Institutions Code, to read:

11463.5. The department may perform or have performed audits on all foster family agencies which have received funds on behalf of children receiving assistance under the AFDC-FC program.

CHAPTER 1213

An act to amend Section 6370 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987]

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

SECTION 1. Section 6370 of the Revenue and Taxation Code is amended to read:

6370. (a) This section applies to each of the following:

(1) Nonprofit parent-teacher associations chartered by the California Congress of Parents, Teachers, and Students, Incorporated, and equivalent organizations performing the same type of service for public or private schools and authorized to operate within the school by the governing authority of the school.

(2) Nonprofit parent cooperative nursery schools.

(3) Nonprofit associations commonly called The Friends of the Library, and equivalent organizations performing auxiliary services to any library district, municipal library, or county library in the state, which are authorized to operate within the library by the governing authority of the library.

(b) An organization described in subdivision (a) is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, tangible personal property which it sells, if the profits are used exclusively in furtherance of the purposes of the organization.

(c) This section shall not be applicable to the state or any of its political subdivisions.

SEC. 2. Notwithstanding Section 2230 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to the section nor shall there be any appropriation made by this act because revenue losses to local agencies due to this act, if any, are minor in nature and will not cause any financial burden to local government.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, 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 1214

An act to amend Section 13962 of, and to add Sections 13965.1 and 13969.2 to, the Government Code, and to amend Section 1464 of the Penal Code, relating to crime, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987.]

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

SECTION 1. Section 13962 of the Government Code is amended to read:

13962. (a) The staff of the board shall appoint a clerk to review all applications for assistance in order to ensure that they are complete. If the application is not complete, it shall be returned to the victim with a brief statement of the additional information required. The victim, within 30 days of receipt thereof, may either supply the additional information or appeal the action to the board which shall review the application to determine whether or not it is complete.

(b) If the application is accepted in accordance with subdivision (a), the board shall process claims within an average of 90 days. The 90-day period shall operate from the date the claim is accepted by the board or local contract agencies, to the date of payment or denial of the claim. Any verification of the claim which is deemed necessary shall be performed during this 90-day period. The verification process shall include sending supplemental forms to all hospitals, physicians, law enforcement officials and other interested parties involved, verifying the treatment of the victim, circumstances of the crime, amounts paid or received by or for the victim and other pertinent information as may be deemed necessary by the board. Verification forms shall be provided by the board and shall be returned to the board within 10 business days. All information shall be provided at no cost to the applicant, the board, or local victim centers. The board shall include on the verification forms reference to this section with respect to the prompt return of the verification forms. The board, thereupon, shall consider the application at a hearing at a time and place of its choosing. The board shall notify all interested persons not less than five days prior to the date of the hearing.

(c) The victim shall cooperate with the staff of the board or the local victim center in the verification of the information contained in the application. Failure to cooperate shall be reported to the board, which, in its discretion, may reject the application on this ground alone.

(d) Hearings shall be held in various locations with the frequency necessary to provide for the speedy adjudication of the applications.

If the applicant's presence is required at the hearing, the board shall consider convenience to the applicant in scheduling the locations. If necessary, the board shall delegate the hearing of applications to hearing examiners.

(e) The board may contract with local victim centers to provide verification of claims processed by the centers pursuant to conditions stated in subdivision (b).

SEC. 2. Section 13965.1 is added to the Government Code, to read:

13965.1. Notwithstanding any conflicting provision of this chapter, the board may make additional payments for purposes described in paragraph (1) of subdivision (a) of Section 13965 to any victim who filed an application with the board on or after December 1, 1982, who was a victim of a crime involving sexual assault, and who is a minor at the time the additional payments pursuant to this section are made. The payments authorized by this section shall not in the aggregate of all payments made by the board to the victim of the crime exceed twenty-three thousand dollars ($23,000), unless federal funds are available, in which case the aggregate maximum award may be increased to forty-six thousand dollars ($46,000).

SEC. 3. Section 13969.2 is added to the Government Code, to read:

13969.2. If the board does not meet the 90-day standard prescribed in subdivision (b) of Section 13962, the board shall, thereafter, report to the Legislature, on a quarterly basis, its progress and its current average time of processing a claim.

SEC. 4. Section 1464 of the Penal Code is amended to read:

1464. (a) Subject to the provisions of Section 76000 of the Government Code, there shall be levied an assessment in an amount equal to seven dollars ($7) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 76000 of the Government Code for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory,

the person making the deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his or her immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 76000 of the Government Code shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) Of moneys so deposited, two dollars ($2) for every seven dollars ($7) collected shall be transmitted to the State Treasury to be deposited directly into the Restitution Fund. The remainder shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.38 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. These moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Restitution Fund an amount equal to 22.12 percent of the funds deposited in the Assessment Fund during the preceding month. Those funds shall be made available in accordance with subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 27.75 percent of the funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 29.73 percent of the funds deposited in the Assessment Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 9.12 percent of the funds deposited in the Assessment Fund during the preceding month. Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public

Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to 0.90 percent of the funds deposited in the Assessment Fund during the preceding month. The amount so transferred shall not exceed the sum of eight hundred fifty thousand dollars ($850,000) in any fiscal year. The remainder in excess of eight hundred fifty thousand dollars ($850,000) shall be transferred to the Restitution Fund.

(7) Once a month there shall be transferred into the Victim-Witness Assistance Fund an amount equal to 10.00 percent of the funds deposited in the Assessment Fund during the preceding month.

SEC. 5. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

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 the establishment of a procedure, where necessary, for the submission of reports to the Legislature regarding the timely processing and verification of applications for indemnification for the victims of crimes, and in order to maintain funding for the restitution of victims of crime, it is necessary that this act take effect immediately.

CHAPTER 1215

An act to amend Sections 21006 and 21403 of, to amend and repeal Section 21015.5 of, to amend, repeal, and add Section 21661 of, and to add Section 21662.1 to, the Public Utilities Code, relating to helicopters.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987]

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

SECTION 1. Section 21006 of the Public Utilities Code is amended to read:

21006. This chapter or any other law shall not be construed as prohibiting, restricting, or permitting the prohibition of the operation or landing in populated areas of helicopters and similar

aircraft capable of approximately vertical ascent and descent, subject to such reasonable rules affecting the public safety as the department may promulgate. The department shall adopt rules and regulations, effective January 1, 1989, for the conditions under which helicopters may make temporary use of a landing site.

SEC. 2. Section 21015.5 of the Public Utilities Code is amended to read:

21015.5. "Temporary helicopter landing site" means an area used, or intended for use, for the landing and takeoff of helicopters for a limited period of time not to exceed 180 consecutive days commencing with the day of the first helicopter landing.

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 21403 of the Public Utilities Code is amended to read:

21403. (a) Flight in aircraft over the land and waters of this state is lawful, unless at altitudes below those prescribed by federal authority, or unless conducted so as to be imminently dangerous to persons or property lawfully on the land or water beneath. The landing of an aircraft on the land or waters of another, without his or her consent, is unlawful except in the case of a forced landing or pursuant to Section 21662.1. The owner, lessee, or operator of the aircraft is liable, as provided by law, for damages caused by a forced landing.

(b) The landing, takeoff, or taxiing of an aircraft on a public freeway, highway, road, or street is unlawful except in the following cases:

(1) A forced landing.

(2) A landing during a natural disaster or other public emergency if the landing has received prior approval from the public agency having primary jurisdiction over traffic upon the freeway, highway, road, or street.

(3) When the landing, takeoff, or taxiing has received prior approval from the public agency having primary jurisdiction over traffic upon the freeway, highway, road or street.

The prosecution bears the burden of proving that none of the exceptions apply to the act which is alleged to be unlawful.

(c) The right of flight in aircraft includes the right of safe access to public airports, which includes the right of flight within the zone of approach of any public airport without restriction or hazard. The zone of approach of an airport shall conform to the specifications of Part 77 of the Federal Aviation Regulations of the Federal Aviation Administration, Department of Transportation.

SEC. 4. Section 21661 of the Public Utilities Code is amended to read:

21661. This article does not apply to any temporary helicopter landing site, temporary seaplane landing site, ultralight vehicle flightpark, or to airports owned or operated by the United States. To

the extent necessary, the department may exempt any other class of airports, pursuant to a reasonable classification or grouping, from any rule or requirement thereof, adopted pursuant to this article, if it finds that its application would be an undue burden on the class and is not required in the interest of public safety.

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. 5. Section 21661 is added to the Public Utilities Code, to read:

21661. This article does not apply to any temporary seaplane landing site, ultralight vehicle flightpark, or to airports owned or operated by the United States. To the extent necessary, the department may exempt any other class of airports, pursuant to a reasonable classification or grouping, from any rule or requirement thereof, adopted pursuant to this article, if it finds that its application would be an undue burden on the class and is not required in the interest of public safety.

This section shall become operative on January 1, 1989.

SEC. 6. Section 21662.1 is added to the Public Utilities Code, to read:

21662.1. (a) At or as near as practical to the site of a medical emergency and at a medical facility, an officer authorized by a public safety agency may designate an area for the landing and taking off of an emergency service helicopter, in accordance with regulations established not later than January 1, 1989, pursuant to Section 21243.

(b) "Public safety agency" means any city, county, state agency, or special purpose district authorized to arrange for emergency medical services.

CHAPTER 1216

An act to amend Section 7681 of the Labor Code, relating to occupational safety and health.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987.]

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

SECTION 1. Section 7681 of the Labor Code is amended to read:

7681. (a) The division shall inspect or cause to be inspected each installed tank at least every five years, except for any tank specified in subdivision (b).

(b) Any air pressure tank which contains 25 cubic feet or less and is not subject to pressure of more than 150 pounds per square inch and any liquefied petroleum gas tank used for storage, except a tank used for dispensing purposes as part of a dispensing unit, which

contains 575 gallons or less shall be inspected or caused to be inspected by the division when the tank is initially placed into service if the tank is constructed, inspected and stamped in compliance with the American Society of Mechanical Engineers (ASME) Code, or the design, material, and construction of the tank is approved by the division as equivalent to the ASME Code.

(c) "Dispensing unit," as used in this section, means a stationary liquefied petroleum gas installation, other than a bulk plant, from which a product is dispensed, for final utilization, into mobile fuel tanks or portable cylinders.

CHAPTER 1217

An act to amend Section 4025 of the Penal Code, relating to jails.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987.]

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

SECTION 1. Section 4025 of the Penal Code is amended to read:

4025. (a) The sheriff of each county may establish, maintain and operate a store in connection with the county jail and for this purpose may purchase confectionery, tobacco and tobacco users' supplies, postage and writing materials, and toilet articles and supplies and to sell these goods, articles, and supplies for cash to inmates in the jail.

(b) The sale prices of the articles offered for sale at the store shall be fixed by the sheriff. Any profit shall be deposited in an inmate welfare fund to be kept in the treasury of the county.

(c) There shall also be deposited in the inmate welfare fund 10 percent of all gross sales of inmate hobbycraft.

(d) There shall be deposited in the inmate welfare fund any money, refund, rebate, or commission received from a telephone company when the money, refund, rebate, or commission is attributable to the use of pay telephones which are primarily used by inmates while incarcerated.

(e) The money and property deposited in the inmate welfare fund shall be expended by the sheriff solely for the benefit, education, and welfare of the inmates confined within the jail. An itemized report of these expenditures shall be submitted annually to the board of supervisors.

(f) The operation of a store within any other county adult detention facility which is not under the jurisdiction of the sheriff shall be governed by the provisions of this section, except that the board of supervisors shall designate the proper county official to exercise the duties otherwise allocated in this section to the sheriff.

(g) The operation of a store within any city adult detention facility shall be governed by the provisions of this section, except that

city officials shall assume the respective duties otherwise outlined in this section for county officials.

(h) The treasurer may, pursuant to Article 1 (commencing with Section 53600), or Article 2 (commencing with Section 53630), of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, deposit, invest, or reinvest any part of the inmate welfare fund, in excess of that which the treasurer deems necessary for immediate use. The interest or increment accruing on these funds shall be deposited in the inmate welfare fund.

(i) The sheriff may expend money from the inmate welfare fund to provide indigent inmates, prior to release from the county jail or any other adult detention facility under the jurisdiction of the sheriff, with essential clothing and transportation expenses within the county or, at the discretion of the sheriff, transportation to the inmate's county of residence, if the county is within the state or 500 miles from the county of incarceration. This subdivision does not authorize expenditure of money from the inmate welfare fund for the transfer of any inmate to the custody of any other law enforcement official or jurisdiction.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1218

An act to add Sections 15365.9, 15365.10, 15365.11, and 15365.12 to, and to add Article 3 (commencing with Section 15365.20) to Chapter 1.9 of Part 6.7 of Division 3 of Title 2 of, the Government Code, relating to economic development, and making an appropriation therefor.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987.]

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

SECTION 1. Section 15365.9 is added to the Government Code, to read:

15365.9. The office may perform all of the following functions:

(a) Organize, coordinate, promote, and participate in export promotion events, including, but not limited to, trade fairs, missions, delegations, marts, seminars, and advertising.

(b) Assemble, publish, and disseminate information about California products and services to potential foreign buyers in English and other appropriate languages.

(c) Provide potential and actual California-based exporters with information and technical assistance to enable them to participate more effectively in foreign promotional activities, trade shows, and similar events.

(d) Underwrite the costs of organizing the participation of California firms in foreign trade fairs, marts, and other promotional events and to charge participating firms a share of the appropriate costs of their participation in these events.

SEC. 2. Section 15365.10 is added to the Government Code, to read:

15365.10. It is the intent of the Legislature that private firms shall bear, to the extent that it is practical, their fair share of the costs involved in participating in export trade events. It is also the intent of the Legislature to allow the office to promote California as an abundant source of high quality products and services for foreign buyers and to have the office pay for the costs associated with these generic promotional activities. Appropriate costs include advertising, construction of trade booths and other equipment and banners, booth rental, staff, and staff travel to set up and operate California booths, translation and interpretation services, literature, mailing, and other support services necessary for the successful operation of California's participation in export trade events.

SEC. 3. Section 15365.11 is added to the Government Code, to read:

15365.11. (a) The office shall develop for the commission a five-year marketing strategy which specifies how the office and the commission plan to expand California exports through their promotional activities. The strategy shall identify all of the following:

(1) The products, services, commodities, or industries upon which the office intends to focus its promotional activities.

(2) The markets or countries which the office intends to target for increased export sales. Specific attention shall be paid to the Pacific Rim market and the potential that is afforded by these countries for expanding California export sales.

(3) The methods which the office plans to utilize to expand California's exports.

(b) The commission shall issue a report based on the marketing strategy required in subdivision (a) to the Senate Committee on Banking and Commerce, the Senate Select Committee on the Pacific Rim, and the Assembly Committee on International Trade and Intergovernmental Relations on or before July 1, 1988. The commission shall also exercise its collective judgment to ensure that the report does not disclose to potential competitors aspects of the marketing strategy which might compromise the effectiveness of that strategy or otherwise harm the interests of California exporters.

SEC. 4. Section 15365.12 is added to the Government Code, to

read:

15365.12. The office shall also do all of the following:

(a) Issue a biennial report for inclusion in the commission's biennial report required by Section 15364.7. The report shall include all of the following information:

(1) A list of the trade promotional activities and events in which the office has participated and descriptions of the nature of its participation.

(2) An accounting of its financial participation in trade promotion activities.

(3) An assessment of the export sales and other benefits that have accrued to the state as a result of the state's participation in these events.

(b) Submit an annual budget to the director of the commission to be included as part of the commission's budget for inclusion in the Governor's Budget.

(c) Submit, at least annually, to the commission, a proposed program of trade promotional activities and events for the office. The commission shall have approval authority over the events in which the office proposes to participate, and may appoint a subcommittee or advisory group to assist the commission in determining the approved list of trade promotion events for the office.

(d) Coordinate its trade promotional activities with the Department of Food and Agriculture, the Department of Commerce, and the State Energy Resources Conservation and Development Commission in order to avoid duplication of effort and to maximize the effectiveness of the state's participation in these events.

SEC. 5. Article 3 (commencing with Section 15365.20) is added to Chapter 1.9 of Part 6.7 of Division 3 of Title 2 of the Government Code, to read:

Article 3. California Export Promotion Account

15365.20. (a) There is hereby created in the California State World Trade Commission Fund the California Export Promotion Account. Notwithstanding Section 13340, the account is continuously appropriated to the commission for the purposes specified in subdivision (b).

(b) The account is created solely for the purposes of receiving state, federal, and private moneys for allocation by the commission to the office for its promotional activities and to serve as a working capital fund for the office to facilitate its organization of, and participation in, trade promotion events.

(c) Funds received from private firms for their participation in trade promotional events organized by the office shall be deposited in the account. Moneys in the account shall be paid out by the Treasurer on warrants drawn by the Controller upon order of the commission in furtherance of the purposes of this chapter.

(d) It is the intent of the Legislature that the ongoing operational expenses of the office shall be funded from moneys appropriated for that purpose in the California World Trade Commission Fund.

SEC. 6. The sum of one hundred thousand dollars ($100,000) is appropriated from the General Fund to the California Export Promotion Account in the California State World Trade Commission Fund, established pursuant to Section 5 of this act.

CHAPTER 1219

An act to add Sections 39668 and 40715 to the Health and Safety Code, relating to air pollution, and making an appropriation therefor.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987.]

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

SECTION 1. Section 39668 is added to the Health and Safety Code, to read:

39668. (a) The state board shall, on or before January 1, 1989, prepare a written report on the availability and effectiveness of toxic air contaminant monitoring options in consultation with the Scientific Review Panel on Toxic Air Contaminants, the districts, the Department of Food and Agriculture, and the State Department of Health Services. In preparing the report, the state board shall conduct at least one public workshop. The report shall include, but not be limited to, all of the following:

(1) An evaluation of existing toxic air contaminant monitoring capacity and assessment capabilities within the state, including, but not limited to, existing monitoring stations and equipment of the state board and of the districts.

(2) An analysis of the available options for monitoring and assessing current levels of exposure to identified and all potential toxic air contaminants in urban areas of the state, taking into consideration the technical feasibility and costs of these monitoring options. The report shall evaluate the extent to which the establishment of additional monitoring capacity is appropriate and feasible to facilitate the identification and control of toxic air contaminants.

(3) A list of all substances or classes of substances addressed by the state board pursuant to paragraph (2), including, but not limited to, a discussion of the appropriateness and availability of monitoring for those substances or classes of substances.

(4) An analysis of the feasibility and costs of establishing an indoor toxic air contaminant monitoring program to facilitate the implementation of Section 39660.5.

(b) Based on the findings in the report prepared pursuant to subdivision (a), the state board shall develop, by July 1, 1989, in conjunction with the districts, guidelines for establishing supplemental toxic air contaminant monitoring networks to be implemented by the districts. The board shall develop the guidelines only to the extent that it determines, pursuant to paragraph (2) of subdivision (a), that establishing additional monitoring capacity is appropriate and feasible.

(c) The guidelines established pursuant to subdivision (b) shall include a priority list for establishing and implementing the supplemental toxic air contaminant monitoring networks. The state board shall give priority to that supplemental monitoring capacity it determines to be most needed to identify and control toxic air contaminants. The state board shall allocate to districts, in the priority order included in the guidelines, state funds provided in subdivision (b) of Section 3 of the act adding this section and in subsequent Budget Acts for establishing and implementing the supplemental toxic air contaminant monitoring networks. The state board shall allocate state funds to the districts, upon appropriation by the Legislature, on a 50 percent matching basis, and shall not provide state funds for the supplemental toxic air contaminant monitoring program established by Section 40715 to any district in excess of district funds allocated by the district in establishing and implementing the supplemental monitoring networks created pursuant to Section 40715.

(d) The state board shall request in its annual budget sufficient state funds, in addition to those provided in subdivision (b) of Section 3 of the act adding this section, to match, on a 50 percent basis, those district funds allocated by the districts for establishing and implementing the supplemental monitoring program specified in the guidelines adopted pursuant to subdivision (b).

SEC. 2. Section 40715 is added to the Health and Safety Code, to read:

40715. (a) Every district shall establish and implement supplemental toxic air contaminant monitoring networks to supplement the existing monitoring capacity of the board and the districts as specified in the guidelines developed by the state board pursuant to Section 39668. The district may establish a schedule of fees to be paid to the district by sources of toxic air contaminants within the district which shall not exceed 50 percent of the costs of establishing and implementing these monitoring networks. Funds for the remaining 50 percent of the costs of establishing and implementing the supplemental toxic air contaminant monitoring networks shall be provided by the state board pursuant to subdivision (c) of Section 39668. Districts shall not be required to expend any district funds to establish and implement the supplemental toxic air contaminant monitoring program, as determined by Section 39668, that are in excess of the amount of state funds provided by the state board for that purpose.

(b) It is the intent of the Legislature that this district supplemental toxic air contaminant monitoring program shall supplement existing laws and regulations to protect human health and safety from the adverse effects of toxic air contaminants and shall not limit the existing authority of any state or local agency to identify or control toxic air contaminants.

SEC. 3. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated to the State Air Resources Board for purposes of Section 39668 of the Health and Safety Code, as follows:

(a) Ninety thousand dollars ($90,000) from the Motor Vehicle Account in the State Transportation Fund.

(b) Fifty thousand dollars ($50,000) from the Environmental License Plate Fund for allocation to air pollution control districts and air quality management districts for purposes of subdivision (c) of Section 39668.

(c) Ten thousand dollars ($10,000) from the General Fund.

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 1220

An act to add Section 68565 to the Government Code, relating to interpreters.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987]

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

SECTION 1. Section 68565 is added to the Government Code, to read:

68565. Effective January 1, 1989, subject to the provisions of Section 68562, all persons who interpret, in or for use in a trial court proceeding, in any of the following languages shall be certified to the superior courts by the State Personnel Board as qualified court interpreters: Spanish, Portuguese, Arabic, Chinese, Vietnamese, Japanese, Korean, Tagalog and any other language designated by the State Personnel Board. The examination procedure to certify the list of qualified interpreters in all languages shall be the same as that previously established by the State Personnel Board for Spanish Language Court Interpreters.

CHAPTER 1221

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

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987.]

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

SECTION 1. (a) Notwithstanding subdivisions (b) and (c) of Section 67354 of the Education Code, the sum of two million thirty-eight thousand dollars ($2,038,000) is hereby appropriated from the Higher Education Capital Outlay Bond Fund to the Regents of the University of California for the completion of construction of, and for the purchase of equipment for, a building to house a school of allied health at the Charles R. Drew Postgraduate Medical School.

(b) No funds appropriated by this act may be encumbered unless and until the University of California obtains title to the building and to the real property on which this facility is to be located and constructed, together with the necessary rights of access.

(c) No funds appropriated by this act may be encumbered under a construction contract which does not meet the State of California and the University of California contract requirements.

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 complete a partially constructed building so as to begin the health courses to be provided therein by the winter semester of 1988, it is necessary that this act take effect immediately.

CHAPTER 1222

An act to add Section 14670.25 to the Government Code, and to add Section 104.8 to the Streets and Highways Code, relating to property.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987]

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 Homeless Emergency Lease Program Act of 1987.

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

(a) The homeless in California include those people who obtain

shelter from a private or public agency, if their nighttime residence is either an emergency shelter or they live in a public or private space not designed for shelter.

(b) The number of homeless and hungry individuals in California has reached crisis proportions. It is estimated that between 55,000 and 100,000 persons are homeless in California and the number could be as high as 250,000.

(c) The homeless in California include the elderly, the mentally ill, families with unemployed breadwinners, single women with children, veterans, runaway and "thrown away" youth, and the chemically dependent.

(d) The magnitude of the problem has overwhelmed the resources of local government and the private sector. Charitable and religious groups have provided a large portion of the necessary shelter services, as well as providing food closets, soup kitchens, and overnight lodging vouchers.

(e) Low-cost housing and relief is not available in sufficient quantities in most areas of the state. The demand for relief shelter far exceeds the supply available in California.

(f) Emergency shelters are, and will continue to be, the primary assistance to many homeless persons in California.

SEC. 3. Section 14670.25 is added to the Government Code, to read:

14670.25. (a) Notwithstanding any other provision of law, the director may let the Nurses Cottage at the Agnew's Developmental Center in the City of Santa Clara and units 11 to 15, inclusive, of Building No. 7 at west campus of the center, and Buildings No. 213 and 215 at the Metropolitan State Hospital in the City of Norwalk, with the consent of the affected state agency, pursuant to Section 14670 for emergency shelters or feeding programs for a period of not more than five years to qualified nonprofit organizations.

At the end of the initial five-year period and every five years thereafter, the lease shall be reviewed to assure compliance by the lessee with the original purposes of the agreement and may be renewed if appropriate. Property let for that purpose shall be let for the amount of one dollar ($1) per month. The lease amount may be paid in advance of the term covered in order to reduce the administrative costs associated with the payment of the monthly rental fee.

Any lease executed pursuant to this section shall also provide for the cost of administering the lease. The administrative fee shall not exceed three hundred dollars ($300) per year, unless the director and the affected state agency determine that, because of complications in the lease agreement, a higher administrative fee is required.

(b) The Legislature finds and declares that the lease of real property pursuant to this section serves a public purpose.

(c) For purposes of this section, "qualified nonprofit organizations" include only those organizations which can

demonstrate the ability to pay liability insurance and other costs of maintaining the leased property incurred in providing services for the homeless.

SEC. 4. Section 104.8 is added to the Streets and Highways Code, to read:

104.8. (a) The department may provide information regarding, and may lease, airspace under the interchange of Route 4 and Route 5 in San Joaquin County and between 17th Street and the west side of Route 5 between the southbound on-ramp and the off-ramp near J Street in the City of San Diego and on the northeast corner of Route 101 and De La Vina Street in the County of Santa Barbara, to any qualified nonprofit agency, pursuant to submission of proof of its nonprofit status, for emergency shelter or feeding program purposes. Property may be leased pursuant to this section only if there is no buyer. The lease shall be for one dollar ($1) per month. The lease amount may be paid in advance of the term covered in order to reduce the administrative costs associated with the payment of the monthly rental fee.

Any lease executed pursuant to this section shall also provide for the cost of administering the lease.

The administrative fee shall not exceed five hundred dollars ($500) per year unless the department determines that a higher administrative fee is necessary.

(b) The Legislature finds and declares that the lease of real property pursuant to this section serves a public purpose.

(c) For purposes of this section, "qualified private nonprofit agency" includes only organizations which can demonstrate the ability to pay liability insurance and other costs of maintaining the leased property incurred in providing services for the homeless.

CHAPTER 1223

An act to amend Sections 17721 and 17742.5 of the Education Code, and to amend Section 15490 of the Government Code, relating to school facilities.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987.]

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

SECTION 1. Section 17721 of the Education Code is amended to read:

17721. No project shall be approved for the reconstruction, modernization, or replacement of any school building that was constructed or reconstructed less than 30 years, or, in the case of any portable classroom, as defined in subdivision (e) of Section 17742.5, less than 20 years, prior to the date of approval of the project applied

for under this chapter.

SEC. 2. Section 17742.5 of the Education Code is amended 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 or more shall be excluded from the area of adequate school construction. At the option of the applicant district, the area calculation may refer instead to the total area of portable classrooms in the high school attendance area in which the project is located, as of July 1, 1986, that exceeded, as of that date, 10 percent of the total area of the high school attendance area.

(d) Leased portable classrooms shall not be included in the area of adequate school construction for a period of five years from the date first leased by the district. That exclusion shall be extended by the board for one additional five-year period where the board finds that the continued use of the leased portable classrooms for classroom purposes is justified by additional growth in average daily attendance pursuant to the standards established by this part. If the board finds continued use to be no longer justified, it may extend the exclusion for a period of up to two years as necessary to maintain the eligibility of the applicant district for project funding pursuant to this chapter if the board finds that the district has made a good faith effort to obtain that funding in a timely manner. The additional five-year exclusion shall not apply to any portable classroom for which, under the lease agreement, the district is to take title, or the total consideration paid by the district for the lease and an option to purchase is determined by the board to be substantially equivalent to the cost of acquiring title.

(e) For purposes of this section, "portable classroom" means a classroom building of modular design and construction that meets all of the following criteria:

(1) Is designed and constructed to be relocatable and transportable over public streets.

(2) Is designed and constructed for relocation without the separation of the roof or floor from the building.

(3) When measured at the most exterior walls, has a floor area not in excess of 2,000 square feet.

(f) In the alternative to claiming any or all of the exclusions set

forth in subdivisions (a) to (d), inclusive, an applicant school district may exclude from the determination of the area of existing adequate school construction the total square footage calculated as follows:

(1) Subtract the average daily attendance of the district, by grades, based on a three-year enrollment projection from the average daily attendance of the district, by grade, based on a five-year enrollment projection, which projections shall be made in accordance with methods and standards established by the board pursuant to this chapter. Where the allowable building area of the district is computed, pursuant to this chapter, by high school attendance area, the computation described in this paragraph shall be performed on that basis.

(2) Multiply the results of paragraph (1) by the following:

(A) Forty-five square feet, for kindergarten and grades 1 to 6, inclusive.

(B) Fifty square feet, for grades 7 and 8.

(C) Fifty-five square feet, for grades 9 to 12, inclusive.

(3) Add together the results of subparagraphs (A) to (C), inclusive, of paragraph (2).

SEC. 3. Section 15490 of the Government Code is amended to read:

15490. (a) There is in the state government the State Allocation Board, consisting of the Director of Finance, the Director of General Services, and the Superintendent of Public Instruction. Two Members of the Senate appointed by the Senate Committee on Rules, and two Members of the Assembly appointed by the Speaker, shall meet and, except as otherwise provided by the Constitution, advise with the board to the extent that this advisory participation is not incompatible with their respective positions as Members of the Legislature.

(b) The members of the board and the Members of the Legislature meeting with the board shall receive no compensation for their services but shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties.

(c) The Director of General Services shall provide assistance to the board as the board requires. The board may, by a majority vote of all members, do one or more of the following:

(1) Appoint an employee to report directly to the board as assistant executive officer.

(2) Fix the salary and other compensation of the assistant executive officer.

(3) Employ additional staff members, and secure office space and furnishings, as necessary to support the assistant executive officer in the performance of his or her duties.

CHAPTER 1224

An act to add and repeal Section 7035 of the Business and Professions Code, relating to contractors, and making an appropriation therefor.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987.]

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

SECTION 1. Section 7035 is added to the Business and Professions Code, to read:

7035. (a) There is hereby created a pilot project to be operated in not more than six cities, counties, or cities and counties, as determined by the registrar and as authorized by the individual cities, counties, or cities and counties, under which a local building inspector, or a person designated by the city or county, when checking for building or construction permits or for compliance with local or state building laws, may issue a citation to a person who is engaged in contracting without a license in violation of this chapter.

(b) All citations shall be on a form prescribed by the registrar. One copy of the citation shall be given to the alleged violator and one copy shall be forwarded to the registrar within 10 days of issuance.

(c) The board shall reimburse the local entity the sum of twenty-five dollars ($25) for each citation issued by an inspector of that entity.

(d) This section shall be operative until January 1, 1989, and on that date is repealed, unless a later enacted statute extends or repeals this section.

SEC. 2. The Contractors' State License Board shall report to the Legislature on or before February 1, 1989, as to the effectiveness of the pilot project for citing unlicensed contractors pursuant to Section 7035 of the Business and Professions Code. The report shall include the total number of citations issued in the pilot project area and the outcome of citations.

SEC. 3. The sum of sixty thousand dollars ($60,000) is hereby appropriated from the Contractors' License Fund to the Contractors' State License Board for reimbursement to local agencies for citations issued pursuant to Section 7035 of the Business and Professions Code.

CHAPTER 1225

An act to amend Sections 1317, 1798, 1798.170, 1798.172, 1798.206, and 1798.208 of, and to add Sections 1317.1, 1317.2, 1317.2a, 1317.3, 1317.4, 1317.5, 1317.6, 1317.7, 1317.8, 1317.9, 1317.9a, and 1798.205 to, the Health and Safety Code, relating to hospital emergency medical treatment and patient transfer.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987]

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

SECTION 1. Section 1317 of the Health and Safety Code is amended to read:

1317. (a) Emergency services and care shall be provided to any person requesting services or care, or for whom services or care is requested, for any condition in which the person is in danger of loss of life, or serious injury or illness, at any health facility licensed under this chapter that maintains and operates an emergency department to provide emergency services to the public when the health facility has appropriate facilities and qualified personnel available to provide the services or care.

(b) In no event shall the provision of emergency services and care be based upon, or affected by, the person's race, ethnicity, religion, national origin, citizenship, age, sex, preexisting medical condition, physical or mental handicap, insurance status, economic status, or ability to pay for medical services, except to the extent that a circumstance such as age, sex, preexisting medical condition, or physical or mental handicap is medically significant to the provision of appropriate medical care to that individual.

(c) Neither the health facility, its employees, nor any physician, dentist, or podiatrist shall be held liable in any action arising out of a refusal to render emergency services or care if reasonable care is exercised in determining and treating the condition of the person, or in determining the appropriateness of the facilities, the qualifications and availability of personnel to render the services.

(d) Emergency services and care shall be rendered without first questioning the patient or any other person as to his ability to pay therefor. However, the patient or his legally responsible relative or guardian shall execute an agreement to pay therefor or otherwise supply insurance or credit information promptly after the services are rendered.

(e) If a health facility subject to this chapter does not maintain an emergency department, its employees shall nevertheless exercise reasonable care to determine whether an emergency exists and shall direct the persons seeking emergency care to a nearby facility which can render the needed services, and shall assist the persons seeking emergency care in obtaining the services, including transportation

services, in every way reasonable under the circumstances.

(f) No act or omission of any rescue team established by any health facility licensed under this chapter, or operated by the federal or state government, a county, or by the Regents of the University of California, done or omitted while attempting to resuscitate any person who is in immediate danger of loss of life shall impose any liability upon the health facility, the officers, members of the staff, nurses, or employees of the health facility, including, but not limited to, the members of the rescue team, or upon the federal or state government or a county, if good faith is exercised.

(g) "Rescue team," as used in this section, means a special group of physicians and surgeons, nurses, and employees of a health facility who have been trained in cardiopulmonary resuscitation and have been designated by the health facility to attempt, in cases of emergency, to resuscitate persons who are in immediate danger of loss of life.

(h) This section shall not relieve a health facility of any duty otherwise imposed by law upon the health facility for the designation and training of members of a rescue team or for the provision or maintenance of equipment to be used by a rescue team.

SEC. 2. Section 1317.1 is added to the Health and Safety Code, to read:

1317.1. Unless the context otherwise requires, the following definitions shall control the construction of this article:

(a) "Emergency services and care" means medical screening, examination, and evaluation by a physician, or, to the extent permitted by applicable law, by other appropriate personnel under the supervision of a physician, to determine if an emergency medical condition or active labor exists and, if it does, the care, treatment, and surgery by a physician necessary to relieve or eliminate the emergency medical condition, within the capability of the facility.

(b) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in any of the following:

(1) Placing the patient's health in serious jeopardy.

(2) Serious impairment to bodily functions.

(3) Serious dysfunction of any bodily organ or part.

(c) "Active labor" means a labor at a time at which either of the following would occur:

(1) There is inadequate time to effect safe transfer to another hospital prior to delivery.

(2) A transfer may pose a threat to the health and safety of the patient or the unborn child.

(d) "Hospital" means all hospitals with an emergency department licensed by the state department.

(e) "State department" means the State Department of Health Services.

(f) "Medical hazard" means a material deterioration in medical

condition in, or jeopardy to, a patients' medical condition or expected chances for recovery.

(g) "Board" means the Board of Medical Quality Assurance.

(h) "Within the capability of the facility" means those capabilities which the hospital is required to have as a condition of its emergency medical services permit and services specified on Services Inventory Form 7041 filed by the hospital with the Office of Statewide Health Planning and Development.

(i) "Consultation" means the rendering of an opinion, advice, or prescribing treatment by telephone and, when determined to be medically necessary jointly by the emergency and specialty physicians, includes review of the patient's medical record, examination, and treatment of the patient in person by a specialty physician who is qualified to give an opinion or render the necessary treatment in order to stabilize the patient.

SEC. 3. Section 1317.2 is added to the Health and Safety Code, to read:

1317.2. No person needing emergency services and care may be transferred from a hospital to another hospital for any nonmedical reason (such as the person's inability to pay for any emergency service or care) unless each of the following conditions are met:

(a) The person is examined and evaluated by a physician including, if necessary, consultation prior to transfer.

(b) The person has been provided with emergency services and care such that it can be determined, within reasonable medical probability, that the transfer or delay caused by the transfer will not create a medical hazard to the person.

(c) A physician at the transferring hospital has notified and has obtained the consent to the transfer by a physician at the receiving hospital and confirmation by the receiving hospital that the person meets the hospital's admissions criteria relating to appropriate bed, personnel, and equipment necessary to treat the person.

(d) The transferring hospital provides appropriate personnel and equipment which a reasonable and prudent physician in the same or similar locality exercising ordinary care would use to effect the transfer.

(e) All the person's pertinent medical records and copies of all the appropriate diagnostic test results which are reasonably available are transferred with the person.

(f) The records transferred with the person include a "Transfer Summary" signed by the transferring physician which contains relevant transfer information. The form of the "Transfer Summary" shall, at a minimum, contain the person's name, address, sex, race, age, insurance status, and medical condition; the name and address of the transferring doctor or emergency room personnel authorizing the transfer; the time and date the person was first presented at the transferring hospital; the name of the physician at the receiving hospital consenting to the transfer and the time and date of the consent; the time and date of the transfer; the reason for the transfer;

and the declaration of the transferring physician that the transferring physician is assured, within reasonable medical probability, that the transfer creates no medical hazard to the patient. Neither the transferring physician nor transferring hospital shall be required to duplicate, in the "Transfer Summary," information contained in medical records transferred with the person.

(g) The transfer conforms with regulations established by the state department. These regulations may prescribe minimum protocols for patient transfers.

(h) Nothing in this section shall apply to a transfer of a patient for medical reasons.

(i) Nothing in this section shall prohibit the transfer or discharge of a patient when the patient or the patient's representative requests a transfer or discharge and gives informed consent to the transfer or discharge against medical advice.

SEC. 4. Section 1317.2a is added to the Health and Safety Code, to read:

1317.2a. (a) A hospital which has a legal obligation, whether imposed by statute or by contract to the extent of that contractual obligation, to any third-party payer, including, but not limited to, a health maintenance organization, health care service plan, nonprofit hospital service plan, insurer, or preferred provider organization, a county, or an employer to provide care for a patient under the circumstances specified in Section 1317.2 shall receive that patient to the extent required by the applicable statute or by the terms of the contract, or, when the hospital is unable to accept a patient for whom it has a legal obligation to provide care whose transfer will not create a medical hazard as specified in Section 1317.2, it shall make appropriate arrangements for the patient's care.

(b) A county hospital shall accept a patient whose transfer will not create a medical hazard as specified in subdivision (b) of Section 1317.2 and who is determined by the county to be eligible to receive health care services required under Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code, unless the hospital does not have appropriate bed capacity, medical personnel, or equipment required to provide care to the patient in accordance with accepted medical practice. When a county hospital is unable for any of these reasons to accept a patient whose transfer will not create a medical hazard as specified in subdivision (b) of Section 1317.2, it shall make appropriate arrangements for the patient's care. The obligation to make appropriate arrangements does not mandate a level of service or payment, does not modify the county's obligations under Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code, and does not create a cause of action or limit a county's flexibility to manage county health systems within available resources, but this flexibility shall not diminish a county's responsibilities under Part 5 (commencing with Section 17000) of Division 9 of the Welfare and

Institutions Code or the requirements contained in Chapter 2.5 (commencing with Section 1440).

(c) When a patient is transferred pursuant to subdivision (a), the receiving hospital shall provide personnel and equipment reasonably required in the exercise of good medical practice for the care of the transferred patient.

(d) Any third-party payer, including, but not limited to, a health maintenance organization, health care service plan, nonprofit hospital service plan, insurer, preferred provider organization, or employer which has a statutory or contractual obligation to provide or indemnify emergency medical services on behalf of a patient shall be liable, to the extent of the contractual obligation, for the reasonable charges of the transferring hospital and the treating physicians for the emergency services provided pursuant to this article, except that the patient shall be responsible for any deductible or copayment obligation. Notwithstanding this section, the liability of a third-party payer which has contracted with health care providers for the provision of these emergency services shall be set by the terms of that contract. Notwithstanding this section, the liability of a third-party payer that is licensed by the Insurance Commissioner or the Commissioner of Corporations and has a contractual obligation to provide or indemnify emergency medical services shall be determined in accordance with the terms of that contract and shall remain under the sole jurisdiction of that licensing agency.

(e) A hospital which has a legal obligation to provide care for a patient as specified by subdivision (a) of Section 1317.2a, to the extent of its legal obligation, imposed by statute or by contract to the extent of that contractual obligation and which does not accept transfer of, or make other appropriate arrangements for, medically stable patients in violation of this article or regulations adopted pursuant thereto shall be liable for the reasonable charges of the transferring hospital and treating physician for providing services and care which should have been provided by the receiving hospital.

(f) Subdivisions (d) and (e) do not apply to county obligations under Section 17000 of the Welfare and Institutions Code.

(g) Nothing in this section shall be interpreted to require a hospital to make arrangements for the care of a patient for whom the hospital does not have a legal obligation to provide care.

SEC. 5. Section 1317.3 is added to the Health and Safety Code, to read:

1317.3. (a) As a condition of licensure, each hospital shall adopt, in consultation with the medical staff, policies and transfer protocols consistent with this article and regulations adopted hereunder.

(b) As a condition of licensure, each hospital shall adopt a policy prohibiting discrimination in the provision of emergency services and care based on race, ethnicity, religion, national origin, citizenship, age, sex, preexisting medical condition, physical or mental handicap, insurance status, economic status, or ability to pay

for medical services, except to the extent that a circumstance such as age, sex, preexisting medical condition, or physical or mental handicap is medically significant to the provision of appropriate medical care to that individual.

(c) As a condition of licensure, each hospital shall require that, as a condition of staff privileges, physicians who serve on an "oncall" basis to the hospital's emergency room cannot refuse to respond to a call on the basis of the patient's race, ethnicity, religion, national origin, citizenship, age, sex, preexisting medical condition, physical or mental handicap, insurance status, economic status, or ability to pay for medical services, except to the extent that a circumstance such as age, sex, preexisting medical condition, or physical or mental handicap is medically significant to the provision of appropriate medical care to that individual. If a contract between a physician and hospital for the provision of emergency room coverage presently prevents the hospital from imposing those conditions, the conditions shall be included in the contract as soon as is legally permissible. Nothing in this section shall be construed as requiring that any physician serve on an "oncall" basis.

(d) As a condition of licensure, all hospitals will inform all persons presented to an emergency room or their representatives if any are present and the person is unable to understand verbal or written communication, both orally and in writing, of the reasons for the transfer or refusal to provide emergency services and care and of the person's right to emergency services and care prior to transfer or discharge without regard to ability to pay. Nothing in this subdivision requires notification of the reasons for the transfer in advance of the transfer where a person is unaccompanied and the hospital has made a reasonable effort to locate a representative, and because of the person's physical or mental condition, notification is not possible. All hospitals shall prominently post a sign in their emergency rooms informing the public of their rights. Both the posted sign and written communication concerning the transfer or refusal to provide emergency services and care shall give the address of the state department as the government agency to contact in the event the person wishes to complain about the hospital's conduct.

(e) If a hospital does not timely adopt the policies and protocols required in this article, the hospital, in addition to denial or revocation of any of its licenses, shall be subject to a fine not to exceed one thousand dollars ($1,000) each day after expiration of 60 days' written notice from the state department that the hospital's policies or protocols required by this article are inadequate unless the delay is excused by the state department upon a showing of good and sufficient cause by the hospital. The notice shall include a detailed statement of the state department's reasons for its determination and suggested changes to the hospital's protocols which would be acceptable to the state department.

(f) Each hospital's policies and protocols required in or under this article shall be submitted for approval to the state department within

90 days of the state department's adoption of regulations under this article.

SEC. 6. Section 1317.4 is added to the Health and Safety Code, to read:

1317.4. (a) All hospitals shall maintain records of each transfer made or received, including the "Memorandum of Transfer" described in subdivision (g) of Section 1317.2, for a period of three years.

(b) All hospitals making or receiving transfers shall file with the state department annual reports on forms prescribed by the state department which shall describe the aggregate number of transfers made and received according to the person's insurance status and reasons for transfers.

(c) The receiving hospital, and all physicians, other licensed emergency room health personnel at the receiving hospital, and certified prehospital emergency personnel who know of apparent violations of this article or the regulations adopted hereunder shall, and the corresponding personnel at the transferring hospital and the transferring hospital may, report the apparent violations to the state department on a form prescribed by the state department within one week following its occurrence. The state department shall promptly send a copy of the form to the hospital administrator and appropriate medical staff committee of the transferring hospital and the local emergency medical services agency unless the state department concludes that the complaint does not allege facts requiring further investigation, or is otherwise unmeritorious, or the state department concludes, based upon the circumstance of the case, that its investigation of the allegations would be impeded by disclosure of the form. When two or more persons required to report jointly have knowledge of an apparent violation, a single report may be made by a member of the team selected by mutual agreement in accordance with hospital protocols. Any individual, required to report by this section, who disagrees with the proposed joint report has a right and duty to separately report. A failure to report shall not subject the individual or institution to the penalties set forth in Section 1317.6.

(d) No hospital, government agency, or person shall retaliate against, penalize, institute a civil action against, or recover monetary relief from, or otherwise cause any injury to a physician or other personnel for reporting in good faith an apparent violation of this article or the regulations adopted hereunder to the state department, hospital, medical staff, or any other interested party or government agency.

(e) No hospital, government agency, or person shall retaliate against, penalize, institute a civil action against, or recover monetary relief from, or otherwise cause any injury to a physician who refused to transfer a patient when the physician determines, within reasonable medical probability, that the transfer, or delay caused by the transfer, will create a medical hazard to the person.

(f) Any person who violates subdivision (d) or (e) is subject to a civil money penalty of no more than ten thousand dollars ($10,000). The remedy specified in this section shall be in addition to any other remedy provided by law.

(g) The state department shall on an annual basis publish and provide to the Legislature a statistical summary by county on the extent of economic transfers of emergency patients, the frequency of medically hazardous transfers, the insurance status of the patient populations being transferred and all violations finally determined by the state department describing the nature of the violations, hospitals involved, and the action taken by the state department in response. These summaries shall not reveal the identity of individual persons transferred.

(h) Proceedings by the state department to impose a fine under Section 1317.3 or 1317.6, and proceedings by the board to impose a fine under Section 1317.6, shall be conducted as follows:

(1) If a hospital desires to contest a proposed fine, the hospital shall, within 15 business days after service of the notice of proposed fine, notify the director in writing of its intention to contest the proposed fine. If requested by the hospital, the director or the director's designee, shall hold, within 30 business days, an informal conference, at the conclusion of which he or she may affirm, modify, or dismiss the proposed fine. If the director or the director's designee affirms, modifies, or dismisses the proposed fine, he or she shall state with particularity in writing his or her reasons for that action, and shall immediately transmit a copy thereof to the hospital. If the hospital desires to contest a determination, the hospital shall inform the director in writing within 15 business days after it receives the decision by the director or director's designee. The hospital shall not be required to request an informal conference to contest a proposed fine as provided in this section. If the hospital fails to notify the director in writing that it intends to protest the proposed fine within the times specified in this subdivision, the proposed fine shall be deemed a final order of the state department and shall not be subject to further administrative review.

(2) If a hospital notifies the director that it intends to contest a proposed fine, the director shall immediately notify the Attorney General. Upon notification, the Attorney General shall promptly take all appropriate action to enforce the proposed fine in a court of competent jurisdiction for the county in which the hospital is located.

(3) If a judicial proceeding is prosecuted under the provisions of this section, the state department shall have the burden of establishing by a preponderance of the evidence that the alleged facts supporting the proposed fine occurred, that the alleged facts constituted a violation for which a fine may be assessed under Section 1317.3, 1317.4, or 1317.6, and that the proposed fine is appropriate. The state department shall also have the burden of establishing by a preponderance of the evidence that on appeal the assessment of the proposed fine would be upheld. If a hospital timely notifies the

state department of its decision to contest a proposed fine, the fine shall not be due and payable unless and until the judicial proceeding is terminated in favor of the state department.

(4) Actions brought under the provisions of this section shall be set for trial at the earliest possible date and shall take precedence on the court calendar over all other cases except matters to which equal or superior precedence is specifically granted by law. Times for responsive pleading and for hearing the proceeding shall be set by the judge of the court with the object of securing a decision as to subject matters at the earliest possible time.

(5) If the proposed fine is dismissed or reduced, the state department shall take action immediately to ensure that the public records reflect in a prominent manner that the proposed fine was dismissed or reduced.

(6) In lieu of a judicial proceeding, the state department and the hospital may jointly elect to submit the matter to binding arbitration. The parties shall agree upon an arbitrator designated from the American Arbitration Association in accordance with the association's established rules and procedures. The arbitration hearing shall be set within 45 days of the parties' joint election, but in no event less than 28 days from the date of selection of an arbitrator. The arbitrator hearing may be continued up to 15 days if necessary at the arbitrator's discretion. The decision of the arbitrator shall be based upon substantive law and shall be binding on all parties, subject to judicial review. This review shall be limited to whether there was substantial evidence to support the decision of the arbitrator.

(7) Proceedings by the board to impose a fine under Section 1317.6, shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 2 of Division 3 of Title 2 of the Government Code.

SEC. 7. Section 1317.5 is added to the Health and Safety Code, to read:

1317.5. (a) All alleged violations of this article and the regulations adopted hereunder shall be investigated by the state department. The state department, with the agreement of the local EMS agency, may refer violations of this article to the local EMS agency for investigation. The investigation shall be conducted pursuant to procedures established by the state department and shall be completed no later than 60 days after the report of apparent violation is received by the state department.

(b) At the conclusion of its investigation, the state department or the local EMS agency shall refer any alleged violation by a physician to a board of medical quality assurance unless it is determined that the complaint is without a reasonable basis.

SEC. 8. Section 1317.6 is added to the Health and Safety Code, to read:

1317.6. (a) Hospitals found by the state department to have committed, or to be responsible for, a violation of the provisions of

this article or the regulations adopted hereunder may each be fined by the state department in an amount not to exceed twenty-five thousand dollars ($25,000) for each hospital violation. However, with respect to licensed physicians, the board shall have sole authority to impose a fine. Fines imposed under this section shall not be cumulative.

(1) In determining the amount of the fine for a hospital violation, the state department shall take into account all of the following:

(A) Whether the violation was knowing or unintentional.

(B) Whether the violation resulted, or was reasonably likely to result, in a medical hazard to the patient.

(C) The frequency or gravity of the violation.

(D) Other civil fines which have been imposed as a result of the violation under Section 1867 of the federal Social Security Act.

It is the intent of the Legislature that the state department has primary responsibility for regulating the conduct of hospital emergency rooms and that fines imposed under this section should not be duplicated by additional fines imposed by the federal government as a result of the conduct which constituted a violation of this section. To effectuate the Legislature's intent, the Governor shall inform the Secretary of the federal Department of Health and Human Services of the enactment of this section and request the federal department to credit any penalty assessed under this section against any subsequent civil monetary penalty assessed pursuant to Section 1867 of the federal Social Security Act for the same violation.

(2) Physicians found by the board to have committed, or to be responsible for, a violation of this article or the regulations adopted pursuant thereto are subject to any and all penalties which the board may lawfully impose and may be fined by the board in an amount not to exceed five thousand dollars ($5,000) for each violation. The board may impose fines when it finds any of the following:

(A) The violation was knowing or willful.

(B) The violation was reasonably likely to result in a medical hazard.

(C) There are repeated violations.

The board shall take into account all of these factors when determining the amount of the fine. Fines imposed under this paragraph shall not duplicate federal fines, and the board shall credit any federal fine against fines imposed under this paragraph.

(3) There shall be a cumulative maximum limit of thirty thousand dollars ($30,000) in fines assessed against either physicians or hospitals under this article and under Section 1867 of the federal Social Security Act for the same circumstances. To effectuate this cumulative maximum limit, the state department shall do both of the following:

(A) As to state fines assessed prior to the final conclusion, including judicial review, if available, of an action against a hospital by the federal Department of Health and Human Services under Section 1867 of the federal Social Security Act, (for the same

circumstances finally deemed to have been a violation of this article or the regulations adopted hereunder, because of the state department action authorized by this article), remit and return to the hospital within 30 days after conclusion of the federal action, that portion of the state fine necessary to assure that the cumulative maximum limit is not exceeded.

(B) Immediately credit against state fines assessed after the final conclusion, including judicial review, if available, of an action against a hospital by the federal Department of Health and Human Services under Section 1867 of the federal Social Security Act, which results in a fine against a hospital (for the same circumstances finally deemed to have been a violation of this article or the regulations adopted hereunder, because of the state department action authorized by this article), the amount of the federal fine necessary to assure the cumulative maximum limit is not exceeded.

(b) Any hospital found by the state department pursuant to procedures established by the state department to have committed a violation of this article or the regulations adopted hereunder may have its emergency medical service permit revoked or suspended by the state department.

(c) Any administrative or medical personnel who knowingly and intentionally violates any provision of this article, may be charged by the local district attorney with a misdemeanor.

(d) The penalties listed in subdivisions (a), (b), and (c), shall only be applied for violations of Section 1317, 1317.1, or 1317.2.

(e) Notification of each violation found by the state department of the provisions of this article or the regulations adopted hereunder shall be sent by the state department to the Joint Commission for the Accreditation of Hospitals, and state and local emergency medical services agencies.

(f) Any person who suffers personal harm and any medical facility which suffers a financial loss as a result of a violation of this article or the regulations adopted hereunder may recover, in a civil action against the transferring hospital or responsible administrative or medical personnel, damages, reasonable attorneys' fees, and other appropriate relief. Transferring hospitals from which inappropriate transfers of persons are made in violation of this article and the regulations adopted hereunder shall be liable for the normal charges of the receiving hospital for providing the emergency services and care which should have been provided before transfer. Any person potentially harmed by a violation of this article or the regulations adopted hereunder, or the local district attorney or the Attorney General, may bring a civil action against the responsible hospital or administrative or medical personnel, to enjoin the violation, and if the injunction issues, a court shall award reasonable attorney's fees. The provisions of this subdivision are in addition to other civil remedies and do not limit the availability of the other remedies.

(g) Neither the health facility, its employees, nor any physician, dentist, or podiatrist shall be liable in any action arising out of a

refusal to render emergency services or care if the refusal is based on the determination, exercising reasonable care, that the person is not suffering from an emergency medical condition, or that the health facility does not have the appropriate facilities or qualified personnel available to render those services.

SEC. 9. Section 1317.7 is added to the Health and Safety Code, to read:

1317.7. This article shall not preempt any governmental agencies, acting within their authority, from regulating emergency care or patient transfers, including the imposition of more specific duties consistent with the requirements of this article and its implementing regulations. Any inconsistent requirements imposed by the Medi-Cal program shall preempt the provisions of this article with respect to Medi-Cal beneficiaries. To the extent hospitals and physicians enter into contractual relationships with governmental agencies which impose more stringent transfer requirements, those contractual agreements shall control.

SEC. 10. Section 1317.8 is added to the Health and Safety Code, to read:

1317.8. If any provision of this article is declared unlawful or unconstitutional in any judicial action, the remaining provisions of this chapter shall remain in effect.

SEC. 11. Section 1317.9 is added to the Health and Safety Code, to read:

1317.9. The state department shall adopt on an emergency basis regulations to implement the provisions of this article by July 1, 1989.

SEC. 12. Section 1317.9a is added to the Health and Safety Code, to read:

1317.9a. This article shall not be construed as repealing Section 2400 of the Business and Professions Code. Nothing in Sections 1317 to 1317.9a, inclusive, and Section 1798.170 shall prevent a physician from exercising his or her professional judgment in conflict with any state or local regulation promulgated under these sections, so long as the judgment conforms with Sections 1317, 1317.1, and 1317.2, except for subdivision (g) of Section 1317.2, and acting in compliance with the state or local regulations would be contrary to the best interests of the patient.

SEC. 13. Section 1798 of the Health and Safety Code is amended to read:

1798. (a) The medical direction and management of an emergency medical services system shall be under the medical control of the medical director of the local EMS agency. This medical control shall be maintained in the following manner:

(1) Prospectively by written medical policies and procedures to provide standards for patient care.

(2) Immediately by direct voice communication between a certified EMT-P or EMT-II and a base hospital emergency physician or an authorized registered nurse and, in the event of temporary unavailability of voice communications, by utilization by an EMT-P

or EMT-II of authorized, written orders and policies established pursuant to Section 1798.4.

(3) Retrospectively by means of medical audit of field care and continuing education.

(b) Medical control shall be within an EMS system which complies with the minimum standards adopted by the authority, and which is established and implemented by the local EMS agency.

(c) In the event a medical director of a base station questions the medical effect of a policy of a local EMS agency, the medical director of the base station shall submit a written statement to the medical director of the local EMS agency requesting a review by a panel of medical directors of other base stations. Upon receipt of the request, the medical director of a local EMS agency shall promptly convene a panel of medical directors of base stations to evaluate the written statement. The panel shall be composed of all the medical directors of the base stations in the region, except that the local EMS medical director may limit the panel to five members.

This subdivision shall be operative only until the authority adopts more comprehensive regulations that supersede this subdivision.

SEC. 14. Section 1798.170 of the Health and Safety Code is amended to read:

1798.170. A local EMS agency may develop triage and transfer protocols to facilitate prompt delivery of patients to appropriate designated facilities within and without its area of jurisdiction. Considerations in designating a facility shall include, but shall not be limited to, the following:

(a) A general acute care hospital's consistent ability to provide oncall physicians and services for all emergency patients regardless of ability to pay.

(b) The sufficiency of hospital procedures to ensure that all patients who come to the emergency department are examined and evaluated to determine whether or not an emergency condition exists.

(c) The hospital's compliance with local EMS protocols, guidelines, and transfer agreement requirements.

SEC. 15. Section 1798.172 of the Health and Safety Code is amended to read:

1798.172. (a) The local EMS agency shall establish guidelines and standards for completion and operation of formal transfer agreements between hospitals with varying levels of care in the area of jurisdiction of the local EMS agency, consistent with Sections 1317 to 1317.9a, inclusive, and Section 1798. Each local EMS agency shall solicit and consider public comment in drafting guidelines and standards. These guidelines shall include provision for suggested written agreements for the type of patient, necessary initial care treatments, requirements of interhospital care, and associated logistics for transfer, evaluation, and monitoring of the patient.

(b) Notwithstanding the provisions of subdivision (a), and in addition to the provisions of Section 1317, a general acute care

hospital licensed under Chapter 2 (commencing with Section 1250) of Division 2 shall not transfer a person for nonmedical reasons to another health facility unless that other facility receiving the person agrees in advance of the transfer to accept the transfer.

SEC. 16. Section 1798.205 is added to the Health and Safety Code, to read:

1798.205. Any alleged violations of local EMS agency transfer protocols, guidelines, or agreements shall be evaluated by the local EMS agency. If the local EMS agency has concluded that a violation has occurred, it shall take whatever corrective action it deems appropriate within its jurisdiction, including referrals to the district attorney under Sections 1798.206 and 1798.208, and shall notify the State Department of Health Services that a violation of Sections 1317 to 1317.9a, inclusive, has occurred.

SEC. 17. Section 1798.206 of the Health and Safety Code is amended to read:

1798.206. Any person who violates this part, the rules and regulations adopted pursuant thereto, or county ordinances adopted pursuant to this part governing patient transfers, is guilty of a misdemeanor. The Attorney General or the district attorney may prosecute any of these misdemeanors which falls within his or her jurisdiction.

SEC. 18. Section 1798.208 of the Health and Safety Code is amended to read:

1798.208. Whenever any person who has engaged, or is about to engage, in any act or practice which constitutes, or will constitute, a violation of this part, the rules and regulations promulgated pursuant thereto, or local EMS agency protocols, guidelines, or transfer agreements mandated by the state, the superior court in and for the county wherein the acts or practices take place or are about to take place may issue an injunction or other appropriate order restraining that conduct on application of the authority, the Attorney General, or the district attorney of the county. The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that no undertaking shall be required.

SEC. 19. 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.

Moreover, 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 other 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 for those other costs.

CHAPTER 1226

An act to add Section 1418.7 to the Health and Safety Code, relating to health facilities.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987]

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

SECTION 1. Section 1418.7 is added to the Health and Safety Code, to read:

1418.7. (a) Long-term health care facilities, as defined in Section 1418, shall develop and implement policies and procedures designed to reduce theft and loss.

(b) The facility program shall include all of the following:

(1) Establishment and posting of the facility's theft and loss policies.

(2) Orientation of employees to those policies

(3) Documentation of theft and loss of property with a value of twenty-five dollars ($25) or more.

(4) Inventory of patient's personal property upon admission.

(5) Inventory of and surrender of patient's personal property upon death or discharge.

(6) Regular review of the effectiveness of the policies and procedures.

(7) Marking of patient's personal property, including dentures and prosthetic and orthopedic devices.

(8) Reports to local law enforcement of stolen property with a value of one hundred dollars ($100) or more.

(9) Methods for securing personal property.

(10) Notification of residents and families of the facility's policies.

(c) The policies and procedures developed by the facilities pursuant to this section shall be in accordance with Section 1289.4, as added by Assembly Bill 2047 of the 1987–88 Regular Session of the Legislature, if that bill is enacted and becomes effective.

(d) If a facility has shown clear and convincing evidence of its efforts to comply with the requirements of this section, no citation shall be issued as a result of the occasional occurrence of theft and loss in a facility.

CHAPTER 1227

An act to add Sections 14154.2 and 14154.3 to the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987]

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

SECTION 1. Section 14154.2 is added to the Welfare and Institutions Code, to read:

14154.2. (a) The Legislature finds that ambiguities have arisen regarding payment provisions relating to certain costs incurred in processing Medi-Cal eligibility applications for various fiscal years, and believes the ambiguities should be alleviated by means of legislation clarifying the Legislature's intent regarding such provisions.

(b) The Legislature recognizes that federal financial participation in the costs of administering the Medi-Cal program is an important element in funding such costs, and desires that federal financial participation be pursued and obtained whenever possible. With respect to Medi-Cal administration costs, for eligibility determinations, it is not and has not been the Legislature's intent to preclude federal financial participation which would otherwise be available from the Health Care Financing Administration.

SEC. 2. Section 14154.3 is added to the Welfare and Institutions Code, to read:

14154.3. (a) No provision of any Budget Act or other statute shall be interpreted or applied to limit the amount of federal financial participation, otherwise available under federal law, which may be reimbursable to any counties in support of Medi-Cal administration costs for eligibility determinations. No provision of any Budget Act or other statute shall be interpreted or applied to restrict the amount of federal financial participation for Medi-Cal administration costs, for eligibility determinations, otherwise available under federal law, which may be claimed by the department, and, upon receipt from the federal government, transferred by the department to any county.

(b) The Budget Acts referred to in subdivison (a) include, but are not limited to:

(1) Chapter 510 of the Statutes of 1980, including Item 288 thereof.

(2) Chapter 99 of the Statutes of 1981, including Items 426-101-001 and 426-101-890 thereof.

(3) Chapter 326 of the Statutes of 1982, including Items 4260-101-001 and 4260-101-890 thereof.

(4) Chapter 324 of the Statutes of 1983, including Items 4260-101-001 and 4260-101-890 thereof.

(5) Chapter 258 of the Statutes of 1984, including Items 4260-101-001 and 4260-101-890 thereof.

(6) Chapter 111 of the Statutes of 1985, including Items 4260-101-001 and 4260-101-890 thereof.

(7) Chapter 186 of the Statutes of 1986, including Items 4260-101-001 and 4260-101-890 thereof.

Provisions of the Budget Acts listed in paragraphs (1) to (7), inclusive, shall not be interpreted or applied as a prohibition regarding the amount of costs counties may incur for Medi-Cal eligibility administration activities. The provisions of those Budget Acts shall be interpreted and applied as a means of limiting the allocation of state general funds to be paid in support of Medi-Cal eligibility determination activities.

(c) To the extent necessary to effectuate the intent of subdivision (a) and (b), the following Budget Act provisions shall be inoperative:

(1) Provision 17.5 of Item 4260-101-890 of Chapter 99 of the Statutes of 1981.

(2) The incorporation by reference of Provision 16 of Item 4260-101-001 of Chapter 326 of the Statutes of 1982 into Provision 1 of Item 4260-101-890 of that chapter.

(3) The incorporation by reference of Provision 15 of Item 4260-101-001 of Chapter 324 of the Statutes of 1983 into Provision 1 of Item 4260-101-890 of that chapter.

(d) No provision of Section 14154 or 14154.1 shall be interpreted or applied to restrict the amount of federal financial participation, not deferred or disallowed by federal law or regulation which may be reimbursable to any county for Medi-Cal administration costs for eligibility determinations. The County Administrative Cost Control Plan established pursuant to Section 14154 shall not be interpreted or applied as a prohibition regarding the amount of costs counties may incur for Medi-Cal county administration costs. Such plan shall be interpreted and applied only as a means of limiting the allocation of state general funds to be paid in support of such costs.

(e) Should federal financial participation be deferred or disallowed regarding funds transferred by the department to a county for costs incurred for Medi-Cal eligibility determinations, and such federal financial participation was matched by county expenditures, the county which received such federal funds shall repay the funds in question at such time as the federal deferral or disallowance has been issued. If such a federal deferral or disallowance is noticed or issued prior to the transfer of such funds from the department to a county, the department shall not be responsible for transferring the federal funds to the county until the deferral or disallowance issue regarding these funds has been resolved.

(f) The department shall timely appeal from such federal deferrals or disallowances and the affected county may assist the department in preparing and presenting any pending appeal regarding a federal deferral or disallowance.

(g) Medi-Cal eligibility determination activities are undertaken by counties on behalf of the department. Reasonable and necessary costs incurred by counties relating to such eligibility determination activities shall be recognized as costs incurred by the state for purposes of inclusion in the nonfederal share of Medi-Cal eligibility determination expenditures for claiming federal financial participation.

(h) Subdivision (e) shall not apply to agreements between the department and a county executed prior to the effective date of this section.

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

To clarify the ambiguities relating to certain county costs incurred in processing Medi-Cal applications for various fiscal years, and to ensure that federal financial participation be pursued and obtained whenever possible, it is necessary that this act take effect immediately.

CHAPTER 1228

An act to amend Sections 214 and 214.9 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987.]

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

SECTION 1. Section 214 of the Revenue and Taxation Code is amended to read:

214. (a) Property used exclusively for religious, hospital, scientific, or charitable purposes owned and operated by community chests, funds, foundations or corporations organized and operated for religious, hospital, scientific, or charitable purposes is exempt from taxation if:

(1) The owner is not organized or operated for profit. However, in the case of hospitals, the organization shall not be deemed to be organized or operated for profit, if during the immediate preceding fiscal year the excess of operating revenues, exclusive of gifts, endowments and grants-in-aid, over operating expenses has not exceeded a sum equivalent to 10 percent of those operating expenses. As used herein, operating expenses shall include depreciation based on cost of replacement and amortization of, and interest on, indebtedness.

(2) No part of the net earnings of the owner inures to the benefit of any private shareholder or individual.

(3) The property is used for the actual operation of the exempt activity, and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose.

(4) The property is not used or operated by the owner or by any other person so as to benefit any officer, trustee, director, shareholder, member, employee, contributor, or bondholder of the owner or operator, or any other person, through the distribution of profits, payment of excessive charges or compensations or the more advantageous pursuit of their business or profession.

(5) The property is not used by the owner or members thereof for fraternal or lodge purposes, or for social club purposes except where such use is clearly incidental to a primary religious, hospital, scientific, or charitable purpose.

(6) The property is irrevocably dedicated to religious, charitable, scientific, or hospital purposes and upon the liquidation, dissolution or abandonment of the owner will not inure to the benefit of any private person except a fund, foundation or corporation organized and operated for religious, hospital, scientific, or charitable purposes.

(7) The property, if used exclusively for scientific purposes, is used by a foundation or institution which, in addition to complying with the foregoing requirements for the exemption of charitable organization in general, has been chartered by the Congress of the United States (except that this requirement shall not apply when the scientific purposes are medical research), and whose objects are the encouragement or conduct of scientific investigation, research and discovery for the benefit of the community at large.

The exemption provided for herein shall be known as the "welfare exemption." This exemption shall be in addition to any other exemption now provided by law and the existence of the exemption provision in paragraph (2) of subdivision (a) of Section 202 shall not preclude the exemption under this section for museum or library property. Except as provided in subdivision (e), this section shall not be construed to enlarge the college exemption.

(b) Property used exclusively for school purposes of less than collegiate grade and owned and operated by religious, hospital, or charitable funds, foundations, or corporations, which property and funds, foundations, or corporations meet all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section.

(c) Property used exclusively for nursery school purposes and owned and operated by religious, hospital, or charitable funds, foundations, or corporations, which property and funds, foundations, or corporations meet all the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section.

(d) Property used exclusively for a noncommercial educational FM broadcast station or an educational television station and owned

and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations meeting all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section.

(e) Property used exclusively for religious, charitable, scientific, or hospital purposes and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations or educational institutions of collegiate grade, as defined in Section 203, which property and funds, foundations, corporations, or educational institutions meet all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section. As to educational institutions of collegiate grade, as defined in Section 203, the requirements of paragraph (6) of subdivision (a) shall be deemed to be met if both of the following are met:

(1) The property of the educational institution is irrevocably dedicated in its articles of incorporation to charitable and educational purposes, to religious and educational purposes, or to educational purposes.

(2) The articles of incorporation of the educational institution provide for distribution of its property upon its liquidation, dissolution, or abandonment to a fund, foundation, or corporation organized and operated for religious, hospital, scientific, charitable, or educational purposes meeting the requirements for exemption provided by Section 203 or this section.

(f) Property used exclusively for housing and related facilities for elderly or handicapped families and financed by, including, but not limited to, the federal government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), or Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), and owned and operated by religious, hospital, scientific or charitable funds, foundations or corporations meeting all of the requirements of this section shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section. The amendment of this paragraph made at the 1983–84 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law. However, no refund of property taxes shall be required as a result of this amendment for any fiscal year prior to the fiscal year in which the amendment takes effect.

Property used exclusively for housing and related facilities for elderly or handicapped families at which supplemental care or services designed to meet the special needs of elderly or handicapped residents are not provided, or which is not financed by the federal government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public Law 73-479

(12 U.S.C. Sec. 1715v), or Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715), shall not be entitled to exemption pursuant to this subdivision unless the property is used for housing and related facilities for low- and moderate-income elderly or handicapped families. Property which would otherwise be exempt pursuant to this subdivision, except that it includes some housing and related facilities for other than low- or moderate-income elderly or handicapped families, shall be entitled to a partial exemption. The partial exemption shall be equal to that percentage of the value of the property which is equal to the percentage which the number of low- and moderate-income elderly and handicapped families occupying the property is of the total number of families occupying the property.

As used in this subdivision, "low and moderate income" has the same meaning as the term "persons and families of low or moderate income" as defined by Section 50093 of the Health and Safety Code.

(g) Property used exclusively for an emergency or temporary shelter and related facilities for homeless persons and families and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations meeting all of the requirements of this section shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section. Property which would otherwise be exempt pursuant to this subdivision, except that it includes housing and related facilities for other than an emergency or temporary shelter, shall be entitled to a partial exemption.

As used in this subdivision, "emergency or temporary shelter" means a facility which would be eligible for funding pursuant to Chapter 11 (commencing with Section 50800) of Part 2 of Division 31 of the Health and Safety Code.

SEC. 2. Section 214.9 of the Revenue and Taxation Code is amended to read:

214.9. For the purposes of Section 214, a "hospital" includes an outpatient clinic, whether or not patients are admitted for overnight stay or longer, where the clinic furnishes or provides psychiatric services for emotionally disturbed children, or where the clinic is a nonprofit multispecialty clinic of the type described in subdivision (*l*) of Section 1206 of the Health and Safety Code, so long as the multispecialty clinic does not reduce the level of charitable or subsidized activities it provides as a proportion of its total activities.

For purposes of this section, a "hospital" does not include those portions of an outpatient clinic which may be leased or rented to a physician for an office for the general practice of medicine.

SEC. 3. This act makes a classification or exemption of property for purposes of ad valorem taxation within the meaning of Section 2229 of the Revenue and Taxation Code.

SEC. 4. The amendments to Sections 214 and 214.9 of the Revenue and Taxation Code made by this act shall be operative for the 1988–89 fiscal year and fiscal years thereafter.

CHAPTER 1229

An act to amend Sections 332 and 3951 of the Fish and Game Code, relating to elk, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987.]

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

SECTION 1. Section 332 of the Fish and Game Code is amended to read:

332. (a) 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 authorize the taking of tule elk if the average of the department's statewide tule elk population estimates exceeds 2,000 animals, or the Legislature determines, pursuant to the reports required by Section 3951, that suitable areas cannot be found in California to accommodate that population in a healthy condition.

(b) 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.

(c) The department may issue an elk license upon payment of a fee of one hundred sixty-five dollars ($165), as adjusted under Section 713. The fee may include a nonrefundable application fee in an amount determined to be sufficient to pay the costs of administering the management of tule elk under Section 3951. 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 this section and the processing of the applications.

SEC. 2. Section 3951 of the Fish and Game Code is amended to read:

3951. The commission may authorize the taking of tule elk pursuant to Section 332. The department shall relocate tule elk in areas suitable to them in the State of California and shall cooperate to the maximum extent possible with federal and local agencies and private property owners in relocating tule elk in suitable areas under their jurisdiction or ownership. When economic or environmental damage occurs, emphasis shall be placed on managing each tule elk herd at a biologically sound level through the use of relocation, sporthunting, or other appropriate means as determined by the department after consulting with local landowners.

The number of tule elk in the Owens Valley shall not be permitted to increase beyond 490, or any greater number hereafter determined by the department to be the Owens Valley's holding capacity in

accordance with game management principles. Within 180 days of the enactment of the bill which amended this section at the 1987 portion of the 1987–88 Regular Session of the Legislature, the department shall complete management plans for high priority areas, including, but not limited to, Potter Valley and Mendocino County. The plans shall include, but not be limited to:

(1) Definition of the boundaries of the management area.

(2) Characteristics of the tule elk herds within the management area.

(3) The habitat conditions and trends within the management area.

(4) Major factors affecting the tule elk population within the management area, including, but not limited to, conflicts with other land uses.

(5) Management activities necessary to achieve the goals of the plan.

The Director of Fish and Game shall submit a report describing the status of tule elk, as herein set forth, to the commission and to the Governor for transmittal to the Legislature no later than the fifth legislative day of the 1974 Regular Session of the Legislature and every two years thereafter. The report shall also include, but not be limited to:

(1) The population status of tule elk in California.

(2) Age and sex information.

(3) Condition of their ranges.

(4) Other pertinent information.

SEC. 3. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the Fish and Game Preservation Fund for the purpose of implementing this act for expenditure in the 1987–88 and 1988–89 fiscal years. Thereafter, appropriations shall be made through the Budget Act.

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

In order to provide for the conservation and management of relocated tule elk at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1230

An act to add Section 5551.1 to the Business and Professions Code, relating to architecture, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987.]

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

SECTION 1. Section 5551.1 is added to the Business and Professions Code, to read:

5551.1. (a) (1) Individuals licensed as architects in jurisdictions other than California may be granted reciprocal licensure by the board upon satisfaction of the board's requirements for licensure, including, but not limited to, successful completion of the California Architects Licensing Examination, or any examination deemed equivalent thereto.

(2) For the purposes of this section, equivalency of an examination shall include a determination, by the licensing authority in the candidate's home jurisdiction and by the board, that the examination passed by the candidate and the California Architects Licensing Examination measure substantially the same skills and are therefore mutually appropriate for the purposes of satisfying the examination requirement for licensure in either jurisdiction.

(b) The principals of all parties to any business association legally formed in this state, and providing, or offering to provide, architectural services in this state, shall be licensed by the board.

(c) As used in this section, "principal" means any person who meets the following requirements:

(1) Intends to perform, or offer to perform, architectural services in this state, or who does perform, or offer to perform, architectural services in this state.

(2) Is licensed as an architect in a political jurisdiction other than this state, or regularly practices as an architect outside of this state.

(d) Nothing in this section shall be construed to prohibit legal business associations between architects licensed pursuant to this chapter and others who do not meet the definition of "principal" above, provided no architectural services are intended, offered, or performed by any party to the association not licensed pursuant to this chapter.

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.

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 protect California architects' right to reciprocal licensure as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 1231

An act to amend the heading of Chapter 2 (commencing with Section 2116) of Division 3 of, and to add Article 4 (commencing with Section 2200) to Chapter 2 of Division 3 of, the Fish and Game Code, relating to mammals.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987]

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

SECTION 1. The heading of Chapter 2 (commencing with Section 2116) of Division 3 of the Fish and Game Code is amended to read:

CHAPTER 2. IMPORTATION, TRANSPORTATION, AND SHELTERING OF RESTRICTED LIVE WILD ANIMALS

SEC. 2. Article 4 (commencing with Section 2200) is added to Chapter 2 of Division 3 of the Fish and Game Code, to read:

Article 4. Mammals Used for Hire

2200. For purposes of this article, "mammal" means any wild animal of the class Mammalia as specified in Article 1 (commencing with Section 2116) or regulations adopted pursuant thereto which affects commerce.

2201. The Animal Trust Fund is hereby established in the State Treasury. Upon appropriation by the Legislature, the money in the fund is available to the department for the administration of this article and to make grants pursuant to Section 2203. The department may use not more than 5 percent of the money in the fund for the costs of administering this article.

2202. The department may seek grants and accept donations from private and public organizations and agencies for the purposes of this article for deposit in the Animal Trust Fund.

2203. (a) The director, with the advice of the committee established pursuant to Section 2150.3, shall adopt regulations to establish and administer a grant program, including eligibility criteria, by which persons or governmental agencies who operate

facilities to care and shelter mammals may apply for grants for maintenance, operations, and capital improvements. The program shall include provisions for emergency grants with an expedited review process.

(b) Each member of the committee who is eligible to receive per diem and mileage shall be allowed per diem and mileage in accordance with the rules of the Department of Personnel Administration for attending any meeting of the committee involving this article.

CHAPTER 1232

An act to amend Section 13962 of, and to add Sections 13965.1 and 13969.2 to, the Government Code, and to amend Sections 1464 and 13835.7 of the Penal Code, relating to victims of crimes, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987]

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

SECTION 1. Section 13962 of the Government Code is amended to read:

13962. (a) The staff of the board shall appoint a clerk to review all applications for assistance in order to ensure that they are complete. If the application is not complete, it shall be returned to the victim with a brief statement of the additional information required. The victim, within 30 days of receipt thereof, may either supply the additional information or appeal the action to the board which shall review the application to determine whether or not it is complete.

(b) If the application is accepted in accordance with subdivision (a), the board shall process claims within an average of 90 days. The 90-day period shall operate from the date the claim is accepted by the board or local contract agencies, to the date of payment or denial of the claim. Any verification of the claim which is deemed necessary shall be performed during this 90-day period. The verification process shall include sending supplemental forms to all hospitals, physicians, law enforcement officials and other interested parties involved, verifying the treatment of the victim, circumstances of the crime, amounts paid or received by or for the victim and other pertinent information as may be deemed necessary by the board. Verification forms shall be provided by the board and shall be returned to the board within 10 business days. All information shall be provided at no cost to the applicant, the board, or local victim centers. The board shall include on the verification forms reference

to this section with respect to the prompt return of the verification forms. The board, thereupon, shall consider the application at a hearing at a time and place of its choosing. The board shall notify all interested persons not less than five days prior to the date of the hearing.

(c) The victim shall cooperate with the staff of the board or the local victim center in the verification of the information contained in the application. Failure to cooperate shall be reported to the board, which, in its discretion, may reject the application on this ground alone.

(d) Hearings shall be held in various locations with the frequency necessary to provide for the speedy adjudication of the applications. If the applicant's presence is required at the hearing, the board shall consider convenience to the applicant in scheduling the locations. If necessary, the board shall delegate the hearing of applications to hearing examiners.

(e) The board may contract with local victim centers to provide verification of claims processed by the centers pursuant to conditions stated in subdivision (b).

SEC. 2. Section 13965.1 is added to the Government Code, to read:

13965.1. Notwithstanding any conflicting provision of this chapter, the board may make additional payments for purposes described in paragraph (1) of subdivision (a) of Section 13965 to any victim who filed an application with the board on or after December 1, 1982, who was a victim of a crime involving sexual assault, and who is a minor at the time the additional payments pursuant to this section are made. The payments authorized by this section shall not in the aggregate of all payments made by the board to the victim of the crime exceed twenty-three thousand dollars ($23,000), unless federal funds are available, in which case the aggregate maximum award may be increased to forty-six thousand dollars ($46,000).

SEC. 3. Section 13969.2 is added to the Government Code, to read:

13969.2. If the board does not meet the 90-day standard prescribed in subdivision (b) of Section 13962, the board shall, thereafter, report to the Legislature, on a quarterly basis, its progress and its current average time of processing a claim.

SEC. 4. Section 1464 of the Penal Code is amended to read:

1464. (a) Subject to the provisions of Section 76000 of the Government Code, there shall be levied an assessment in an amount equal to seven dollars ($7) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of

subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 76000 of the Government Code for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making the deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his or her immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the amount and transmit it to the county treasury. The portion thereof attributable to Section 76000 of the Government Code shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) Of the moneys so deposited, two dollars ($2) of every seven dollars ($7) collected shall be transmitted to the State Treasury to be deposited directly into the Restitution Fund. The remainder shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.38 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. These moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Restitution Fund an amount equal to 22.12 percent of the funds deposited in the Assessment Fund during the preceding month. Those funds shall be available in accordance with subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 27.75 percent of the

funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 29.73 percent of the funds deposited in the Assessment Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 9.12 percent of the funds deposited in the Assessment Fund during the preceding month. Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to 0.90 percent of the funds deposited in the Assessment Fund during the preceding month. The amount so transferred shall not exceed the sum of eight hundred fifty thousand dollars ($850,000) in any fiscal year. The remainder in excess of eight hundred fifty thousand dollars ($850,000) shall be transferred to the Restitution Fund.

(7) Once a month there shall be transferred into the Victim-Witness Assistance Fund an amount equal to 10.00 percent of the funds deposited in the Assessment Fund during the preceding month.

SEC. 5. Section 13835.7 of the Penal Code is amended to read:

13835.7. There is in the State Treasury the Victim-Witness Assistance Fund. Funds appropriated thereto shall be dispensed to the Office of Criminal Justice Planning exclusively for the purposes specified in this article and for the support of the centers specified in Section 13837.

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 the establishment of a procedure, where necessary, for the submission of reports to the Legislature regarding the timely processing and verification of applications for indemnification for the victims of crimes, and in order to provide additional assistance to witnesses and victims of crime at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 1233

An act to amend Section 60204 of, and to add Article 3 (commencing with Section 52740) to Chapter 11 of Part 28 of, the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987.]

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

SECTION 1. Section 60204 of the Education Code is amended to read:

60204. The commission shall:

(a) Recommend curriculum frameworks to the state board.

(b) Develop criteria for evaluating instructional materials submitted for adoption so that the materials adopted shall adequately cover the subjects in the indicated grade or grades and which comply with the provisions of Article 3 (commencing with Section 60040) of Chapter 1. The criteria shall be public information and shall be provided in written or printed form to any person requesting such information.

(c) Study and evaluate instructional materials submitted for adoption.

(d) Recommend to the state board instructional materials which it approves for adoption.

(e) Review and have the authority to adopt the educational films or video tapes produced in accordance with Article 3 (commencing with Section 52740) of Chapter 11 of Part 28.

SEC. 2. Article 3 (commencing with Section 52740) is added to Chapter 11 of Part 28 of the Education Code, to read:

Article 3. Educational Films or Video Tapes

52740. It is the intent of the Legislature to provide accurate instructional materials to schools on (a) the internment in the United States of persons of Japanese origin and its impact on Japanese-American citizens and (b) the Armenian genocide.

The Legislature finds and declares that there are few films or video tapes available on the subjects of the internment of persons of Japanese origin and the Armenian genocide for teachers to use when teaching pupils about these two devastating events. The shortage of available films or video tapes on these subjects is especially true for the Armenian genocide.

The Legislature hereby finds and declares that films or video tapes giving a historically accurate depiction of the internment in the United States of persons of Japanese origin during World War II and the Armenian genocide should be made in order that pupils will

recognize these events for the horror they represented. The Legislature hereby encourages teachers to use these films or video tapes as a resource in teaching pupils about these two important historical events that are commonly overlooked in today's school curriculum.

52742. The films or video tapes produced pursuant to this article shall be submitted to the Curriculum Development and Supplemental Materials Commission for its review, and may be made available to schools, as provided by this article, only upon adoption by the Curriculum Development and Supplemental Materials Commission.

52743. The State Department of Education shall make available the films or video tapes produced pursuant to this article to schools.

SEC. 2. From the unallocated portion of the discretionary funds apportioned to the State Department of Education under Chapter II of the federal Education Consolidation and Improvement Act of 1981, the department shall allocate, to the Superintendent of Public Instruction, the sum of one hundred thousand dollars ($100,000) which the superintendent shall utilize to enter into one or more contracts for the production of the two films or video tapes provided for under Article 3 (commencing with Section 52740) of Chapter 11 of Part 28 of the Education Code as follows:

(a) Fifty thousand dollars ($50,000) for the production of the film or video tape relative to the internment in the United States of people of Japanese ancestry during World War II.

(b) Fifty thousand dollars ($50,000) for the production of the film or video tape relative to the Armenian genocide.

CHAPTER 1234

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

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987.]

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

SECTION 1. Notwithstanding any other provision of law, the allocation of property tax revenue in the fiscal years 1979–80 to 1985–86, inclusive, in Yolo County, as distributed as of July 1, 1986, shall be deemed correct, and only the following reductions or increases in apportionments shall be made for the fiscal years from 1979–80 to 1985–86, inclusive. For the purposes of computing the 1986–87 tax year and subsequent tax years, the amounts included in the 1985–86 tax year for the purpose of correcting distributions for 1979 to 1985 shall not be used. The auditor of Yolo County shall adjust the next distribution of property tax revenue in amounts to reflect

the adjustments identified in the Yolo County Auditor's Tax Distribution Report for fiscal years 1979–80 to 1985–86, inclusive, dated October 1, 1986, and on file with the Yolo County Clerk.

SEC. 2. With respect to the provisions of Section 1 of this act, 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 unique circumstances applicable only to Yolo County. Unlike other counties, the County of Yolo was unable to comply with the new revenue distribution system because of the lack of a sophisticated computer system necessary as a prerequisite to comply the new method of computation.

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. 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 for local taxing agencies of Yolo County to be immediately relieved of the possibility of litigation and to assure that the county auditor is free to implement the newly adopted apportionment procedures without duress, it is necessary that this act take effect immediately.

CHAPTER 1235

An act to add Sections 1289.3, 1289.4, and 1289.5 to the Health and Safety Code, relating to health facilities.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987]

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

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

(a) A serious problem of theft and loss of resident's personal belongings exists in nursing facilities throughout California.

(b) There is presently inadequate enforcement or monitoring in facilities to help safeguard resident's valuables.

(c) Therefore, it is the intent of the Legislature, while recognizing that the problem cannot be completely eliminated, to establish requirements that facilities shall follow in an attempt to significantly reduce the incidence of theft and loss.

SEC. 2. Section 1289.3 is added to the Health and Safety Code, to

read:

1289.3. (a) A long-term health care facility, as defined in Section 1418, which fails to make reasonable efforts to safeguard patient property shall reimburse a patient for or replace stolen or lost patient property at its then current value. The facility shall be presumed to have made reasonable efforts to safeguard patient property if the facility has shown clear and convincing evidence of its efforts to meet each of the requirements specified in Section 1289.4. The presumption shall be a rebuttable presumption, and the resident or the resident's representative may pursue this matter in any court of competent jurisdiction.

(b) A citation shall be issued if the long-term health care facility has no program in place or if the facility has not shown clear and convincing evidence of its efforts to meet all of the requirements set forth in Section 1289.4. The department shall issue a deficiency in the event that the manner in which the policies have been implemented is inadequate or the individual facility situation warrants additional theft and loss protections.

(c) The department shall not determine that a long-term health care facility's program is inadequate based solely on the occasional occurrence of theft or loss in a facility.

SEC. 3. Section 1289.4 is added to the Health and Safety Code, to read:

1289.4. A theft and loss program shall be implemented by the long-term health care facilities within 90 days after January 1, 1988. The program shall include all of the following:

(a) Establishment and posting of the facility's policy regarding theft and investigative procedures.

(b) Orientation to the policies and procedures for all employees within 90 days of employment.

(c) Documentation of lost and stolen patient property with a value of twenty-five dollars ($25) or more and, upon request, the documented theft and loss record for the past 12 months shall be made available to the State Department of Health Services, the county health department, or law enforcement agencies and to the office of the State Long-Term Care Ombudsman in response to a specific complaint. The documentation shall include, but not be limited to, the following:

(1) A description of the article.

(2) Its estimated value.

(3) The date and time the theft or loss was discovered.

(4) If determinable, the date and time the loss or theft occurred.

(5) The action taken.

(d) A written patient personal property inventory is established upon admission and retained during the resident's stay in the long-term health care facility. A copy of the written inventory shall be provided to the resident or the person acting on the resident's behalf. Subsequent items brought into or removed from the facility shall be added to or deleted from the personal property inventory by

the facility at the written request of the resident, the resident's family, a responsible party, or a person acting on behalf of a resident. The facility shall not be liable for items which have not been requested to be included in the inventory or for items which have been deleted from the inventory. A copy of a current inventory shall be made available upon request to the resident, responsible party, or other authorized representative. The resident, resident's family, or a responsible party may list those items which are not subject to addition or deletion from the inventory, such as personal clothing or laundry, which are subject to frequent removal from the facility.

(e) Inventory and surrender of the resident's personal effects and valuables upon discharge to the resident or authorized representative in exchange for a signed receipt.

(f) Inventory and surrender of personal effects and valuables following the death of a resident to the authorized representative in exchange for a signed receipt. Immediate written notice to the public administrator of the county upon the death of a resident without a representative or known heirs as specified by Section 1145 of the California Probate Code.

(g) Documentation, at least semiannually, of the facility's efforts to control theft and loss, including the review of theft and loss documentation and investigative procedures and results of the investigation by the administrator and, when feasible, the resident council.

(h) Establishment of a method of marking, to the extent feasible, personal property items for identification purposes upon admission and, as added to the property inventory list, including engraving of dentures and tagging of other prosthetic devices.

(i) Reports to the local law enforcement agency within 36 hours when the administrator of the facility has reason to believe patient property with a then current value of one hundred dollars ($100) or more has been stolen. Copies of those reports for the preceding 12 months shall be made available to the State Department of Health Services and law enforcement agencies.

(j) Maintenance of a secured area for patients' property which is available for safekeeping of patient property upon the request of the patient or the patient's responsible party. Provide a lock for the resident's bedside drawer or cabinet upon request of and at the expense of the resident, the resident's family, or authorized representative. The facility administrator shall have access to the locked areas upon request.

(k) A copy of this section and Sections 1289.3 and 1289.5 is provided by a facility to all of the residents and their responsible parties, and, available upon request, to all of the facility's prospective residents and their responsible parties.

(*l*) Notification to all current residents and all new residents, upon admission, of the facility's policies and procedures relating to the facility's theft and loss prevention program.

SEC. 4. Section 1289.5 is added to the Health and Safety Code, to

read:

1289.5. No provision of a contract of admission, which includes all documents which a resident or his or her representative is required to sign at the time of, or as a condition of, admission to a long-term health care facility, shall require or imply a lesser standard of responsibility for the personal property of residents than is required by law.

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 1236

An act relating to schools.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987]

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

SECTION 1. The State Center Community College District desires and needs, due to a shortage of adequate facilities, to use the Old Administration Building Complex located on the campus of the Fresno City College, that does not conform to the so-called "Field Act." The building complex, which was constructed in 1916, is currently listed on both the National Register of Historic Places and the California Historic Register. Efforts are now underway to secure funding for restoration and repair of the building, including work needed to bring compliance with the requirements of the "Field Act."

SEC. 2. Notwithstanding Section 39227 of the Education Code, the governing board of the State Center Community College District may use the Old Administration Building Complex described in Section 1 for purposes of its educational programs from the effective date of this act until January 1, 1993, upon which date this act is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1993, deletes or extends that date. During the period of use authorized by this section, the structure shall not be subject to Article 3 (commencing with Section 39140) or Article 6 (commencing with Section 39210) of Chapter 2 of Part 23 of the Education Code.

SEC. 3. Due to the unique circumstances specified in Section 1 of this act concerning the State Center Community College District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

CHAPTER 1237

An act to amend Section 34.5 of the Civil Code, to add Section 25958 to the Health and Safety Code, and to amend Section 317 of, and to repeal Section 318 of, the Welfare and Institutions Code, relating to minors.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987]

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

SECTION 1. The Legislature finds as follows: (a) the medical, emotional, and psychological consequences of an abortion are serious and can be lasting, particularly when the patient is an immature minor; (b) the capacity to become pregnant and the capacity for exercising mature judgment concerning the wisdom of an abortion are not logically related; (c) minors often lack the ability to make fully informed choices that take account of both immediate and long-range consequences of their actions; (d) parents ordinarily possess information essential to a physician's exercise of his or her best medical judgment concerning a minor child; and (e) parents who are aware that their minor daughter has had an abortion may better ensure that she receives adequate medical attention subsequent to her abortion.

SEC. 2. Section 34.5 of the Civil Code is amended to read:

34.5. Notwithstanding any other provision of law, an unemancipated minor may give consent to the furnishing of hospital, medical and surgical care related to the prevention or treatment of pregnancy, and that consent shall not be subject to disaffirmance because of minority. The consent of the parent or parents of such minor shall not be necessary in order to authorize the hospital, medical, and surgical care.

This section shall not be construed to authorize a minor to be sterilized without the consent of his or her parent or guardian to authorize an unemancipated minor to receive an abortion without the consent of a parent or guardian other than as provided in Section 25958 of the Health and Safety Code.

SEC. 3. Section 25958 is added to the Health and Safety Code, to read:

25958. (a) Except in a medical emergency requiring immediate medical action, no abortion shall be performed upon an unemancipated minor unless she first has given her written consent to the abortion and also has obtained the written consent of one of her parents or legal guardian.

(b) If one or both of an unemancipated, pregnant minor's parents

or her guardian refuse to consent to the performance of an abortion, or if the minor elects not to seek the consent of one or both of her parents or her guardian, an unemancipated pregnant minor may file a petition with the juvenile court. If, pursuant to this subdivision, a minor seeks a petition, the court shall assist the minor or person designated by the minor in preparing the petition and notices required pursuant to this section. The petition shall set forth with specificity the minor's reasons for the request. The court shall ensure that the minor's identity is confidential. The minor may file the petition using only her initials or a pseudonym. An unemancipated pregnant minor may participate in the proceedings in juvenile court on her own behalf, and the court may appoint a guardian ad litem for her. The court shall, however, advise her that she has a right to court-appointed counsel upon request. The hearing shall be set within three days of the filing of the petition. A notice shall be given to the minor of the date, time, and place of the hearing on the petition.

(c) At the hearing on a minor's petition brought pursuant to subdivision (b) for the authorization of an abortion, the court shall consider all evidence duly presented, and order either of the following:

(1) If the court finds that the minor is sufficiently mature and sufficiently informed to make the decision on her own regarding an abortion, and that the minor has, on that basis, consented thereto, the court shall grant the petition.

(2) If the court finds that the minor is not sufficiently mature and sufficiently informed to make the decision on her own regarding an abortion, the court shall then consider whether performance of the abortion would be in the best interest of the minor. In the event that the court finds that the performance of the abortion would be in the minor's best interest, the court shall grant the petition ordering the performance of the abortion without consent of, or notice to, the parents or guardian. In the event that the court finds that the performance of the abortion is not in the best interest of the minor, the court shall deny the petition.

Judgment shall be entered within one court day of submission of the matter.

(d) The minor may appeal the judgment of the juvenile court by filing a written notice of appeal at any time after the entry of the judgment. The Judicial Council shall prescribe, by rule, the practice and procedure on appeal and the time and manner in which any record on appeal shall be prepared and filed. These procedures shall require that the notice of the date, time, and place of hearing, which shall be set within five court days of the filing of notice of appeal, shall be mailed to the parties by the clerk of the court. The appellate court shall ensure that the minor's identity is confidential. The minor may file the petition using only her initials or a pseudonym. Judgment on appeal shall be entered within one court day of submission of the matter.

(e) No fees or costs incurred in connection with the procedures required by this section shall be chargeable to the minor or her parents, or either of them, or to her legal guardian.

(f) It is a misdemeanor, punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the county jail of up to 30 days, or both, for any person to knowingly perform an abortion on an unmarried or unemancipated minor without complying with the requirements of this section.

SEC. 4. Section 317 of the Welfare and Institutions Code is amended to read:

317. (a) When it appears to the court that the minor or his or her parent or guardian desires counsel but is unable to afford and cannot for that reason employ counsel, the court may appoint counsel.

(b) In any case arising under Section 300, the court shall appoint counsel for the minor. In any other case in which it appears to the court that the minor would benefit from the appointment of counsel the court shall appoint counsel for the minor. Counsel for the minor may be a county counsel, district attorney, public defender, or other member of the bar, provided that he or she does not represent another party or county agency whose interest may conflict with the minor's. The court shall determine if representation of both the petitioning agency and the minor constitutes a conflict of interest. If the court finds there is a conflict of interest, separate counsel shall be appointed for the minor. The court may fix the compensation to be paid by the county for the services of appointed counsel, if the counsel is not a county counsel, district attorney, or public defender. Counsel for the minor may be a county counsel, district attorney, public defender, or any other member of the bar, provided that the counsel does not represent another party or county agency whose interest may conflict with the minor's. The court may fix the compensation to be paid by the county for services of appointed counsel who are members of the private bar.

(c) The counsel appointed by the court shall represent the minor at the detention hearing and at all subsequent proceedings before the juvenile court. Counsel shall continue to represent the parent or minor unless relieved by the court upon the substitution of other counsel or for cause. The representation shall include representing the minor in proceedings brought under Sections 232 and 7017 of the Civil Code and in those proceedings relating to the institution or setting aside of legal guardianship.

(d) The counsel for the minor shall be charged in general with the representation of the minor's interests. To that end, counsel, prior to each hearing, shall make such further investigations as counsel deems necessary to ascertain the facts, including the interviewing of witnesses, and counsel shall examine and cross-examine witnesses in both the adjudicatory and dispositional hearings; counsel may also introduce and examine his or her own witnesses, make recommendations to the court concerning the minor's welfare, and participate further in the proceedings to the degree necessary to

adequately represent the minor. For all children five years of age or older, counsel shall interview the minor to determine the minor's wishes and to assess the minor's well-being. In addition, counsel shall investigate the interests of the minor beyond the scope of the juvenile proceeding and report to the court other interests of the minor that may be protected by other administrative or judicial proceedings. The court shall take whatever appropriate action is necessary to fully protect the interests of the minor.

(e) The counsel for the minor shall continue to represent the minor between hearings and shall try to ensure that the minor and his or her parent or parents receive all services ordered by the court.

(f) Notwithstanding any other provision of law, all counsel shall be given access to all records relevant to the case which are maintained by state or local public agencies. Counsel shall be given access to records maintained by hospitals or by other medical or nonmedical practitioners or by child care custodians, in the manner prescribed by Section 1158 of the Evidence Code.

SEC. 5. Section 318 of the Welfare and Institutions Code, as amended by Chapter 302 of the Statutes of 1985, is repealed.

SEC. 6. Sections 4 and 5 of this act shall be operative July 1, 1988, and only if Senate Bill 203 of the 1987–88 Regular Session is enacted and becomes effective before that date, provides funding for trial court operations, and defines "court operations" to include the services of court-appointed counsel.

SEC. 7. 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.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1238

An act to add Section 76060.5 to, and to repeal and add Sections 76060 and 76062 of, the Education Code, relating to education.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987.]

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

SECTION 1. Section 76060 of the Education Code is repealed.

SEC. 2. Section 76060 is added to the Education Code, to read:

76060. The governing board of a community college district may authorize the students of a college to organize a student body association. The association shall encourage students to participate in the governance of the college and may conduct any activities, including fundraising activities, as may be approved by the appropriate college officials. The association may be granted the use of community college premises and properties without charge, subject to any regulations that may be established by the governing board of the community college district.

The governing board of the community college district may authorize the students of a college to organize more than one student body association when the governing board finds that day students and evening students each need an association or geographic circumstances make the organization of only one student body association impractical or inconvenient.

A community college district may assume responsibility for activities formerly conducted by a student body association if the student body association is dissolved. A student body association employee who was employed to perform the activity assumed by the district pursuant to this section shall become a member of the classified service of the district in accordance with Section 88020.

SEC. 3. Section 76060.5 is added to the Education Code, to read:

76060.5. If a student body association has been established at a community college as authorized by Section 76060, the governing body of the association may order that an election be held for the purpose of establishing a student representation fee of one dollar ($1) per semester. The election shall be held in compliance with regulations of the Board of Governors of the California Community Colleges and shall be open to all regularly enrolled students of the community college. The affirmative vote of two-thirds of the students voting in the election shall be sufficient to establish the fee. However, the election shall not be sufficient to establish the fee unless the number of students who vote in the election equals or exceeds the average of the number of students who voted in the previous three student body association elections.

The student representation fee authorized by this section shall be collected by the officials of the community college, together with all

other fees, at the time of registration or before registration and shall be deposited in a separate fund established for student representation fees. The money collected pursuant to this section shall be expended to provide for the support of governmental affairs representatives who may be stating their positions and viewpoints before city, county, and district governments, and before offices and agencies of the state government. The chief fiscal officer of the community college shall have custody of the money collected pursuant to this section and the money shall be disbursed for the purposes described above upon the order of the governing body of the student body association. The district may retain a portion of the fees collected and deposited pursuant to this section that is equal to the actual cost of administering these fees up to, but not more than, 7 percent.

The student representation fee authorized by this section may be terminated by a majority vote of the students voting in an election held for that purpose. The election shall be called and held in compliance with regulations of the Board of Governors of the California Community Colleges and shall be open to all regularly enrolled students of the community college.

A student may, for religious, political, financial, or moral reasons, refuse to pay the student representation fee established under this section. The refusal shall be submitted in writing to the college officials at the time the student pays other fees collected by the college officials. The refusal shall be submitted on the same form that is used for collection of fees as provided by the college, which, as determined by the college, shall be as nearly as practical in the same form as a model form prescribed by regulations of the Board of Governors of the California Community Colleges.

SEC. 4. Section 76062 of the Education Code is repealed.

SEC. 5. Section 76062 is added to the Education Code, to read:

76062. The governing board of a community college district may authorize any organization composed entirely of students attending the colleges of the district to maintain any activities, including fundraising activities, as may be approved by the governing board.

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1239

An act to amend Section 76000 of, and to add Section 76009 to, the Government Code, and to amend Section 1464 of the Penal Code, relating to penalty assessments.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987.]

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

SECTION 1. Section 76000 of the Government Code is amended to read:

76000. (a) In each county, provided that the board of supervisors has adopted a resolution stating that the provisions of this section and Section 76001, 76002, 76004, 76005, 76006, 76008, or 76009 are necessary to the establishment of adequate facilities in the county, the following surcharges and assessments shall be collected, except that a resolution adopted pursuant to Section 76004 may limit the collection to the assessments specified in paragraph (2), a resolution adopted pursuant to Section 76005 or 76008 shall limit the collection to the assessments specified in paragraph (2), and a resolution adopted pursuant to Section 76009 shall limit the collection to the assessments specified in paragraph (3):

(1) Except as limited by resolution pursuant to this subdivision, with respect to each fund established pursuant to Section 76001, 76002, 76004, 76006, or 76008, for every parking offense where a fine or forfeiture is imposed, a surcharge of one dollar and fifty cents ($1.50) shall be included in the fine or forfeiture.

The judges of the county shall increase the bail schedule amounts as appropriate to reflect the surcharge provided for by this subdivision.

In those cities, districts, or other issuing agencies which elect to receive, deposit, accept forfeitures, and otherwise process the posting of bail for parking violations pursuant to subdivision (3) of Section 1463 of the Penal Code, that city, district, or issuing agency shall observe the increased bail amounts as established by the court reflecting the surcharge provided for by this paragraph.

(2) With respect to each fund established pursuant to Section 76001, 76002, 76004, 76006, or 76008, there shall be levied an additional amount of one dollar ($1) for every ten dollars ($10) or fraction thereof which shall be collected together with and in the same manner as the assessment established by Section 1464 of the Penal Code, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant

to paragraph (iii) of subdivision (3) of Section 258 of the Welfare and Institutions Code. This amount shall be deposited with the county treasurer and placed in the fund established pursuant to Section 76001, 76002, 76004, 76005, 76006, or 76008.

(3) With respect to each fund established pursuant to Section 76009, there shall be levied an additional amount of fifty cents ($.50) for every ten dollars ($10) or fraction thereof which shall be collected together with and in the same manner as the assessment established by Section 1464 of the Penal Code, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to paragraph (iii) of subdivision (3) of Section 258 of the Welfare and Institutions Code. This amount shall be deposited with the county treasurer and placed in the fund established pursuant to Section 76009.

(b) The surcharge and assessment increase imposed pursuant to this section shall continue so long as deposits to the funds are required pursuant to Section 76001, 76002, 76004, 76005, 76006, 76008, or 76009.

(c) No county, city and county, city, district or other issuing agency shall be required to contribute revenues to any fund in excess of those revenues generated from the surcharges and assessments established in the resolution adopted pursuant to this section, except as otherwise agreed upon by the local governmental entities involved.

SEC. 2. Section 76009 is added to the Government Code, to read:

76009. (a) Notwithstanding any other provision of law, to assist a county in the implementation of an automated fingerprint identification system, the board of supervisors, operative upon the adoption of a resolution stating that the provisions of this section and Section 76000 are necessary to provide an adequate fingerprint identification system, may establish in the county treasury a County Automated Fingerprint Identification Fund. Deposits shall be made to this fund as specified in subdivision (b).

(b) The county treasurer shall place in the fund fifty cents ($0.50) for every ten dollars ($10) or fraction thereof for every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to paragraph (iii) of subdivision (3) of Section 258 of the Welfare and Institutions Code.

(c) The fund moneys together with any interest earned thereon shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code.

The moneys in the Automated Fingerprint Identification Fund with any interest thereon shall be payable only for the purchase, lease, operation, including personnel and related costs, and maintenance of automated fingerprint equipment and the replacement of existing automated fingerprint equipment, or for the reimbursement of local agencies within the county which have previously purchased, leased, operated, or maintained automated fingerprint equipment from other funding sources.

(d) For purposes of this section "automated fingerprint equipment" shall mean that equipment designated for the storage or retrieval of fingerprint data which is compatible with the California Identification System Remote Access Network.

(e) Deposits to the fund shall continue through and including the 20th year after the initial calendar year in which the surcharge is collected, or longer if and as necessary to make payments upon any lease or lease-back arrangement utilized to finance any of the projects specified herein.

SEC. 3. Section 1464 of the Penal Code is amended to read:

1464. (a) Subject to the provisions of Section 76000 of the Government Code, there shall be levied an assessment in an amount equal to seven dollars ($7) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 76000 of the Government Code for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making the deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his or her immediate family

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 76000 of the Government Code shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) Of moneys so deposited, the revenues attributable to the increase in the assessment from five dollars ($5) to seven dollars ($7), as determined by the Department of Finance, shall be transmitted to the State Treasury to be deposited directly into the Restitution Fund. The remainder shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.38 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. These moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Restitution Fund an amount equal to 22.12 percent of the funds deposited in the Assessment Fund during the preceding month. Those funds shall be made available in accordance with subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 27.75 percent of the funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 29.73 percent of the funds deposited in the Assessment Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 9.12 percent of the funds deposited in the Assessment Fund during the preceding month. Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to 0.90 percent of the funds deposited in the Assessment Fund during the preceding month. The amount so transferred shall not exceed the sum of eight hundred fifty thousand dollars ($850,000) in any fiscal year. The remainder in excess of eight hundred fifty thousand dollars ($850,000) shall be transferred to the Restitution Fund.

(7) Once a month there shall be transferred into the

Victim-Witness Assistance Fund an amount equal to 10.00 percent of the funds deposited in the Assessment Fund during the preceding month.

SEC. 4. Section 3 shall become operative only if SB 738 or AB 1223 or both are enacted and become operative on or before January 1, 1988, and as enacted amend Section 1464 of the Penal Code, and this bill is enacted last.

CHAPTER 1240

An act to amend Sections 1317, 1798, 1798.170, 1798.172, and 1798.208 of, to add Sections 1317.1, 1317.2, 1317.2a, 1317.3, 1317.4, 1317.5, 1317.6, 1317.7, 1317.8, 1317.9, 1317.9a, and 1798.205 to, and to add Chapter 2.5 (commencing with Section 1797.98a) to Part 1 of Division 2.5 of, the Health and Safety Code, and to add Section 1465 to the Penal Code, relating to emergency medical services.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987.]

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

SECTION 1. (a) The Legislature finds and declares that the provision of emergency medical care is a vital public service of great benefit to Californians. It is necessary for the protection of the health and safety of Californians that a comprehensive and high quality system of emergency medical services be provided.

(b) The Legislature also finds that the costs of emergency medical services are greater than the costs of delivering other forms of medical services in the state, as emergency services must be readily available on a 24-hour-a-day basis and must be provided to all, regardless of ability to pay, which is required by existing law.

(c) The Legislature recognizes the breadth of the uncompensated and undercompensated care problems facing California providers which serve large numbers of unsponsored persons. The addition of Chapter 2.5 (commencing with Section 1797.98a) to Part 1 of Division 2.5 of the Health and Safety Code is an effort at addressing only one segment of the uncompensated care problem: the area of emergency services. The Legislature further believes that physicians who provide emergency care to anyone in need, regardless of ability to pay, incur losses resulting from care of patients who have no third-party source of payment or for whom available payment is grossly inadequate to cover the costs of providing such care. The Emergency Medical Services Fund created by Section 15 of this act would provide limited funding to partially offset the losses providers incur for treating unsponsored patients who arrive in need of emergency care. This act provides only partial compensation for a small but important aspect of the larger problem regarding provision

of services to the unsponsored.

(d) As a result, the Legislature finds that providers of emergency medical services must bear the higher expenses of providing these services and must suffer from partial or no reimbursement from many of their patients. If allowed to continue, these higher costs and lower reimbursements could force many physicians to reduce the quality and availability of emergency medical services, to the detriment of Californians.

(e) Therefore, by enacting this legislation, the Legislature is providing a means of partial funding for these vital services. Further, it is the intent of the Legislature that the source of funding of emergency medical services be related to the incident of emergencies requiring immediate medical care. Thus, this act will levy an additional penalty assessment on traffic and other fines. In this way, the costs of emergency medical services shall be borne to a degree by those who have a relationship to creating the emergencies.

SEC. 2. Section 1317 of the Health and Safety Code is amended to read:

1317. (a) Emergency services and care shall be provided to any person requesting the services or care, or for whom services or care is requested, for any condition in which the person is in danger of loss of life, or serious injury or illness, at any health facility licensed under this chapter that maintains and operates an emergency department to provide emergency services to the public when the health facility has appropriate facilities and qualified personnel available to provide the services or care.

(b) In no event shall the provision of emergency services and care be based upon, or affected by, the person's race, ethnicity, religion, national origin, citizenship, age, sex, preexisting medical condition, physical or mental handicap, insurance status, economic status, or ability to pay for medical services, except to the extent that a circumstance such as age, sex, preexisting medical condition, or physical or mental handicap is medically significant to the provision of appropriate medical care to the patient.

(c) Neither the health facility, its employees, nor any physician, dentist, or podiatrist shall be liable in any action arising out of a refusal to render emergency services or care if the refusal is based on the determination, exercising reasonable care, that the person is not suffering from an emergency medical condition, or that the health facility does not have the appropriate facilities or qualified personnel available to render those services.

(d) Emergency services and care shall be rendered without first questioning the patient or any other person as to his or her ability to pay therefor. However, the patient or his or her legally responsible relative or guardian shall execute an agreement to pay therefor or otherwise supply insurance or credit information promptly after the services are rendered.

(e) If a health facility subject to the provisions of this chapter does

not maintain an emergency department, its employees shall nevertheless exercise reasonable care to determine whether an emergency exists and shall direct the persons seeking emergency care to a nearby facility which can render the needed services, and shall assist the persons seeking emergency care in obtaining the services, including transportation services, in every way reasonable under the circumstances.

(f) No act or omission of any rescue team established by any health facility licensed under this chapter, or operated by the federal or state government, a county, or by the Regents of the University of California, done or omitted while attempting to resuscitate any person who is in immediate danger of loss of life shall impose any liability upon the health facility, the officers, members of the staff, nurses, or employees of the health facility, including, but not limited to the members of the rescue team, or upon the federal or state government or a county, if good faith is exercised.

(g) "Rescue team," as used in this section, means a special group of physicians and surgeons, nurses, and employees of a health facility who have been trained in cardiopulmonary resuscitation and have been designated by the health facility to attempt, in cases of emergency, to resuscitate persons who are in immediate danger of loss of life.

(h) This section shall not relieve a health facility of any duty otherwise imposed by law upon the health facility for the designation and training of members of a rescue team or for the provision or maintenance of equipment to be used by a rescue team.

SEC. 3. Section 1317.1 is added to the Health and Safety Code, to read:

1317.1. Unless the context otherwise requires, the following definitions shall control the construction of this article:

(a) "Emergency services and care" means medical screening, examination, and evaluation by a physician, or, to the extent permitted by applicable law, by other appropriate personnel under the supervision of a physician, to determine if an emergency medical condition or active labor exists and, if it does, the care, treatment, and surgery by a physician necessary to relieve or eliminate the emergency medical condition, within the capability of the facility.

(b) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in any of the following:

(1) Placing the patient's health in serious jeopardy.

(2) Serious impairment to bodily functions.

(3) Serious dysfunction of any bodily organ or part.

(c) "Active labor" means a labor at a time at which either of the following would occur:

(1) There is inadequate time to effect safe transfer to another hospital prior to delivery.

(2) A transfer may pose a threat to the health and safety of the

patient or the unborn child.

(d) "Hospital" means all hospitals with an emergency department licensed by the state department.

(e) "State department" means the State Department of Health Services.

(f) "Medical hazard" means a material deterioration in, or jeopardy to, a patient's medical condition or expected chances for recovery.

(g) "Board" means the Board of Medical Quality Assurance.

(h) "Within the capability of the facility" means those capabilities which the hospital is required to have as a condition of its emergency medical services permit and services specified on Services Inventory Form 7041 filed by the hospital with the Office of Statewide Health Planning and Development.

(i) "Consultation" means the rendering of an opinion, advice, or prescribing treatment by telephone and, when determined to be medically necessary jointly by the emergency and the specialty physicians, includes review of the patient's medical record, examination and treatment of the patient in person by a specialty physician who is qualified to give an opinion or render the necessary treatment in order to stabilize the patient.

SEC. 4. Section 1317.2 is added to the Health and Safety Code, to read:

1317.2. No person needing emergency services and care may be transferred from a hospital to another hospital for any nonmedical reason (such as the person's inability to pay for any emergency service or care) unless each of the following conditions are met:

(a) The person is examined and evaluated by a physician, including, if necessary, consultation, prior to transfer.

(b) The person has been provided with emergency services and care so that it can be determined, within reasonable medical probability, that the transfer or delay caused by the transfer will not create a medical hazard to the person.

(c) A physician at the transferring hospital has notified and has obtained the consent to the transfer by a physician at the receiving hospital and confirmation by the receiving hospital that the person meets the hospital's admissions criteria relating to appropriate bed, personnel, and equipment necessary to treat the person.

(d) The transferring hospital provides for appropriate personnel and equipment which a reasonable and prudent physician in the same or similar locality exercising ordinary care would use to effect the transfer.

(e) All the person's pertinent medical records and copies of all the appropriate diagnostic test results which are reasonably available are transferred with the person.

(f) The records transferred with the person include a "Transfer Summary" signed by the transferring physician which contains relevant transfer information. The form of the "Transfer Summary" shall, at a minimum, contain the person's name, address, sex, race,

age, insurance status, and medical condition; the name and address of the transferring doctor or emergency department personnel authorizing the transfer; the time and date the person was first presented at the transferring hospital; the name of the physician at the receiving hospital consenting to the transfer and the time and date of the consent; the time and date of the transfer; the reason for the transfer; and the declaration of the signor that the signor is assured, within reasonable medical probability, that the transfer creates no medical hazard to the patient. Neither the transferring physician nor transferring hospital shall be required to duplicate, in the "Transfer Summary," information contained in medical records transferred with the person.

(g) The transfer conforms with regulations established by the department.

(h) Nothing in this section shall apply to a transfer of a patient for medical reasons.

(i) Nothing in this section shall prohibit the transfer or discharge of a patient when the patient or the patient's representative requests a transfer or discharge and gives informed consent to the transfer or discharge against medical advice.

SEC. 5. Section 1317.2a is added to the Health and Safety Code, to read:

1317.2a. (a) A hospital which has a legal obligation, whether imposed by statute or by contract, to the extent of that contractual obligation, to any third-party payor, including, but not limited to, a health maintenance organization, health care service plan, nonprofit hospital service plan, insurer, or preferred provider organization, a county, or an employer to provide care for a patient under the circumstances specified in Section 1317.2 shall receive that patient to the extent required by the applicable statute or by the terms of the contract, or, when the hospital is unable to accept a patient for whom it has a legal obligation to provide care whose transfer will not create a medical hazard as specified in Section 1317.2, it shall make appropriate arrangements for the patient's care.

(b) A county hospital shall accept a patient whose transfer will not create a medical hazard as specified in Section 1317.2 and who is determined by the county to be eligible to receive health care services required under Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code, unless the hospital does not have appropriate bed capacity, medical personnel, or equipment required to provide care to the patient in accordance with accepted medical practice. When a county hospital is unable to accept a patient whose transfer will not create a medical hazard as specified in Section 1317.2, it shall make appropriate arrangements for the patient's care. The obligation to make appropriate arrangements as set forth in this subdivision does not mandate a level of service or payment, modify the county's obligations under Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code, create a cause of action, or limit a county's

flexibility to manage county health systems within available resources. However, the county's flexibility shall not diminish a county's responsibilities under Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code or the requirements contained in Chapter 2.5 (commencing with Section 1440).

(c) The receiving hospital shall provide personnel and equipment reasonably required in the exercise of good medical practice for the care of the transferred patient.

(d) Any third-party payor, including, but not limited to, a health maintenance organization, health care service plan, nonprofit hospital service plan, insurer, or preferred provider organization, or employer which has a statutory or contractual obligation to provide or indemnify emergency medical services on behalf of a patient shall be liable, to the extent of the contractual obligation to the patient, for the reasonable charges of the transferring hospital and the treating physicians for the emergency services provided pursuant to this article, except that the patient shall be responsible for uncovered services, or any deductible or copayment obligation. Notwithstanding this section, the liability of a third-party payor which has contracted with health care providers for the provision of these emergency services shall be set by the terms of that contract. Notwithstanding this section, the liability of a third-party payor that is licensed by the Insurance Commissioner or the Commissioner of Corporations and has a contractual obligation to provide or indemnify emergency medical services under a contract which covers a subscriber or an enrollee shall be determined in accordance with the terms of that contract and shall remain under the sole jurisdiction of that licensing agency.

(e) A hospital which has a legal obligation to provide care for a patient as specified by subdivision (a) of Section 1317.2a to the extent of its legal obligation, imposed by statute or by contract to the extent of that contractual obligation, which does not accept transfers of, or make other appropriate arrangements for, medically stable patients in violation of this article or regulations adopted pursuant thereto shall be liable for the reasonable charges of the transferring hospital and treating physicians for providing services and care which should have been provided by the receiving hospital.

(f) Subdivisions (d) and (e) do not apply to county obligations under Section 17000 of the Welfare and Institutions Code.

(g) Nothing in this section shall be interpreted to require a hospital to make arrangements for the care of a patient for whom the hospital does not have a legal obligation to provide care.

SEC. 6. Section 1317.3 is added to the Health and Safety Code, to read:

1317.3. (a) As a condition of licensure, each hospital shall adopt, in consultation with the medical staff, policies and transfer protocols consistent with this article and regulations adopted hereunder.

(b) As a condition of licensure, each hospital shall adopt a policy

prohibiting discrimination in the provision of emergency services and care based on race, ethnicity, religion, national origin, citizenship, age, sex, preexisting medical condition, physical or mental handicap, insurance status, economic status, or ability to pay for medical services, except to the extent that a circumstance such as age, sex, preexisting medical condition, or physical or mental handicap is medically significant to the provision of appropriate medical care to the patient.

(c) As a condition of licensure, each hospital shall require that physicians who serve on an "on-call" basis to the hospital's emergency room cannot refuse to respond to a call on the basis of the patient's race, ethnicity, religion, national origin, citizenship, age, sex, preexisting medical condition, physical or mental handicap, insurance status, economic status, or ability to pay for medical services, except to the extent that a circumstance such as age, sex, preexisting medical condition, or physical or mental handicap is medically significant to the provision of appropriate medical care to the patient. If a contract between a physician and hospital for the provision of emergency room coverage presently prevents the hospital from imposing those conditions, the conditions shall be included in the contract as soon as is legally permissible. Nothing in this section shall be construed as requiring that any physician serve on an "on call" basis.

(d) As a condition of licensure, all hospitals shall inform all persons presented to an emergency room or their representatives if any are present and the person is unable to understand verbal or written communication, both orally and in writing, of the reasons for the transfer or refusal to provide emergency services and care and of the person's right to emergency services and care prior to transfer or discharge without regard to ability to pay. Nothing in this subdivision requires notification of the reasons for the transfer in advance of the transfer where a person is unaccompanied and the hospital has made a reasonable effort to locate a representative, and because of the person's physical or mental condition, notification is not possible. All hospitals shall prominently post a sign in their emergency rooms informing the public of their rights. Both the posted sign and written communication concerning the transfer or refusal to provide emergency services and care shall give the address of the department as the government agency to contact in the event the person wishes to complain about the hospital's conduct.

(e) If a hospital does not timely adopt the policies and protocols required in this article, the hospital, in addition to denial or revocation of any of its licenses, shall be subject to a fine not to exceed one thousand dollars ($1,000) each day after expiration of 60 days' written notice from the state department that the hospital's policies or protocols required by this article are inadequate unless the delay is excused by the state department upon a showing of good and sufficient cause by the hospital. The notice shall include a detailed statement of the state department's reasons for its determination and

suggested changes to the hospital's protocols which would be acceptable to the state department.

(f) Each hospital's policies and protocols required in or under this article shall be submitted for approval to the state department within 90 days of the department's adoption of regulations under this article.

SEC. 7. Section 1317.4 is added to the Health and Safety Code, to read:

1317.4. (a) All hospitals shall maintain records of each transfer made or received, including the "Memorandum of Transfer" described in subdivision (f) of Section 1317.2, for a period of three years.

(b) All hospitals making or receiving transfers shall file with the state department annual reports on forms prescribed by the department which shall describe the aggregate number of transfers made and received according to the person's insurance status and reasons for transfers.

(c) The receiving hospital, and all physicians, other licensed emergency room health personnel, and certified prehospital emergency personnel at the receiving hospital who know of apparent violations of this article or the regulations adopted hereunder shall, and the corresponding personnel at the transferring hospital and the transferring hospital may, report the apparent violations to the state department on a form prescribed by the state department within one week following its occurrence. The state department shall promptly send a copy of the form to the hospital administrator and appropriate medical staff committee of the transferring hospital and the local emergency medical services agency, unless the state department concludes that the complaint does not allege facts requiring further investigation, or is otherwise unmeritorious, or the state department concludes, based upon the circumstances of the case, that its investigation of the allegations would be impeded by disclosure of the form. When two or more persons required to report jointly have knowledge of an apparent violation, a single report may be made by a member of the team selected by mutual agreement in accordance with hospital protocols. Any individual, required to report by this section, who disagrees with the proposed joint report has a right and duty to separately report.

A failure to report under this subdivision shall not constitute a violation within the meaning of Section 1290 or 1317.6.

(d) No hospital, government agency, or person shall retaliate against, penalize, institute a civil action against, or recover monetary relief from, or otherwise cause any injury to a physician or other personnel for reporting in good faith an apparent violation of this article or the regulations adopted hereunder to the state department, hospital, medical staff, or any other interested party or government agency.

(e) No hospital, government agency, or person shall retaliate against, penalize, institute a civil action against, or recover monetary relief from, or otherwise cause any injury to a physician who refused

to transfer a patient when the physician determines, within reasonable medical probability, that the transfer or delay caused by the transfer will create a medical hazard to the person.

(f) Any person who violates subdivision (d) or (e) of Section 1317.4 is subject to a civil money penalty of no more than ten thousand dollars ($10,000) per violation. The remedy specified in this section shall be in addition to any other remedy provided by law.

(g) The state department shall on an annual basis publish and provide to the Legislature a statistical summary by county on the extent of economic transfers of emergency patients, the frequency of medically hazardous transfers, the insurance status of the patient populations being transferred and all violations finally determined by the state department describing the nature of the violations, hospitals involved, and the action taken by the state department in response. These summaries shall not reveal the identity of individual persons transferred.

(h) Proceedings by the state department to impose a fine under Section 1317.3 or 1317.6, and proceedings by the board to impose a fine under Section 1317.6, shall be conducted as follows:

(1) If a hospital desires to contest a proposed fine, the hospital shall within 15 business days after service of the notice of proposed fine notify the director in writing of its intention to contest the proposed fine. If requested by the hospital, the director or the director's designee, shall hold, within 30 business days, an informal conference, at the conclusion of which he or she may affirm, modify, or dismiss the proposed fine. If the director or the director's designee affirms, modifies, or dismisses the proposed fine, he or she shall state with particularity in writing his or her reasons for that action, and shall immediately transmit a copy thereof to the hospital. If the hospital desires to contest a determination made after the informal conference, the hospital shall inform the director in writing within 15 business days after it receives the decision by the director or director's designee. The hospital shall not be required to request an informal conference to contest a proposed fine, as specified in this section. If the hospital fails to notify the director in writing that it intends to protest the proposed fine within the times specified in this subdivision, the proposed fine shall be deemed a final order of the state department and shall not be subject to further administrative review.

(2) If a hospital notifies the director that it intends to contest a proposed fine, the director shall immediately notify the Attorney General. Upon notification, the Attorney General shall promptly take all appropriate action to enforce the proposed fine in a court of competent jurisdiction for the county in which the hospital is located.

(3) A judicial action to enforce a proposed fine shall be filed by the Attorney General after a hospital notifies the director of its intent to contest the proposed fine. If a judicial proceeding is prosecuted under the provisions of this section, the state department shall have the burden of establishing by a preponderance of the evidence that

the alleged facts supporting the proposed fine occurred, that the alleged facts constituted a violation for which a fine may be assessed under Section 1317.3, 1317.4, or 1317.6, and the proposed fine is appropriate. The state department shall also have the burden of establishing by a preponderance of the evidence that the assessment of the proposed fine should be upheld. If a hospital timely notifies the state department of its decision to contest a proposed fine, the fine shall not be due and payable unless and until the judicial proceeding is terminated in favor of the state department.

(4) Action brought under the provisions of this section shall be set for trial at the earliest possible date and shall take precedence on the court calendar over all other cases except matters to which equal or superior precedence is specifically granted by law. Times for responsive pleading and for hearing any such proceeding shall be set by the judge of the court with the object of securing a decision as to subject matters at the earliest possible time.

(5) If the proposed fine is dismissed or reduced, the state department shall take action immediately to ensure that the public records reflect in a prominent manner that the proposed fine was dismissed or reduced.

(6) In lieu of a judicial proceeding, the state department and the hospital may jointly elect to submit the matter to binding arbitration, in which case, the department shall initiate arbitration proceedings. The parties shall agree upon an arbitrator designated by the American Arbitration Association in accordance with the Association's established rules and procedures. The arbitration hearing shall be set within 45 days of the parties' joint election, but in no event less than 28 days from the date of selection of an arbitrator. The arbitration hearing may be continued up to 15 days if necessary at the arbitrator's discretion. The decision of arbitrator shall be based upon substantive law and shall be binding on all parties, subject to judicial review. This review shall be limited to whether there was substantial evidence to support the decision of the arbitrator.

(7) Proceedings by the board to impose a fine under Section 1317.6 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.

SEC. 8. Section 1317.5 is added to the Health and Safety Code, to read:

1317.5. (a) All alleged violations of this article and the regulations adopted hereunder shall be investigated by the state department. The state department, with the agreement of the local EMS agency, may refer violations of this article to the local EMS agency for investigation. The investigation shall be conducted pursuant to procedures established by the state department and shall be completed no later than 60 days after the report of apparent violation is received by the state department.

(b) At the conclusion of its investigation, the state department or

the local EMS agency shall refer any alleged violation by a physician to the board of medical quality assurance unless it is determined that the complaint is without a reasonable basis.

SEC. 9. Section 1317.6 is added to the Health and Safety Code, to read:

1317.6. (a) Hospitals found by the state department to have committed or to be responsible for a violation of this article or the regulations adopted pursuant thereto shall be subject to a civil penalty by the state department in an amount not to exceed twenty-five thousand dollars ($25,000) for each hospital violation.

(b) Notwithstanding this section, the director shall refer any alleged violation by a hospital owned and operated by a health care service plan involving a plan member or enrollee to the Department of Corporations unless the director determines the complaint is without reasonable basis. The Department of Corporations shall have sole authority and responsibility to enforce this article with respect to violations involving hospitals owned and operated by health care service plans in their treatment of plan members or enrollees.

(c) Physicians found by the board to have committed, or to be responsible for, a violation of this article or the regulations adopted pursuant thereto shall be subject to any and all penalties which the board may lawfully impose and may be subject to a civil penalty by the board in an amount not to exceed five thousand dollars ($5,000) for each violation. A civil penalty imposed under this subdivision shall not duplicate federal fines, and the board shall credit any federal fine against a civil penalty imposed under this subdivision.

(d) The board may impose fines when it finds any of the following:

(1) The violation was knowing or willful.

(2) The violation was reasonably likely to result in a medical hazard.

(3) There are repeated violations.

(e) It is the intent of the Legislature that the state department has primary responsibility for regulating the conduct of hospital emergency departments and that fines imposed under this section should not be duplicated by additional fines imposed by the federal government as a result of the conduct which constituted a violation of this section. To effectuate the Legislature's intent, the Governor shall inform the Secretary of the federal Department of Health and Human Services of the enactment of this section and request the federal department to credit any penalty assessed under this section against any subsequent civil monetary penalty assessed pursuant to Section 1867 of the federal Social Security Act for the same violation.

(f) There shall be a cumulative maximum limit of thirty thousand dollars ($30,000) in fines assessed against hospitals under this article and under Section 1867 of the federal Social Security Act for the same circumstances. To effectuate this cumulative maximum limit, the state department shall do both of the following:

(1) As to state fines assessed prior to the final conclusion, including judicial review, if available, of an action against a hospital

by the federal Department of Health and Human Services under Section 1867 of the federal Social Security Act, (for the same circumstances finally deemed to have been a violation of this article or the regulations adopted hereunder, because of the state department action authorized by this article), remit and return to the hospital within 30 days after conclusion of the federal action, that portion of the state fine necessary to assure that the cumulative maximum limit is not exceeded.

(2) Immediately credit against state fines assessed after the final conclusion, including judicial review, if available, of an action against a hospital by the federal Department of Health and Human Services under Section 1867 of the federal Social Security Act, which results in a fine against a hospital (for the same circumstances finally deemed to have been a violation of this article or the regulations adopted hereunder, because of the state department action authorized by this article), the amount of the federal fine, necessary to assure the cumulative maximum limit is not exceeded.

(g) Any hospital found by the state department pursuant to procedures established by the state department to have committed a violation of this article or the regulations adopted hereunder may have its emergency medical service permit revoked or suspended by the state department.

(h) Any administrative or medical personnel who knowingly and intentionally violates any provision of this article, may be charged by the local district attorney with a misdemeanor.

(i) Notification of each violation found by the state department of the provisions of this article or the regulations adopted hereunder shall be sent by the state department to the Joint Commission for the Accreditation of Hospitals, the state emergency medical services authority, and local emergency medical services agencies.

(j) Any person who suffers personal harm and any medical facility which suffers a financial loss as a result of a violation of this article or the regulations adopted hereunder may recover, in a civil action against the transferring or receiving hospital, damages, reasonable attorney's fees, and other appropriate relief. Transferring and receiving hospitals from which inappropriate transfers of persons are made or refused in violation of this article and the regulations adopted hereunder shall be liable for the reasonable charges of the receiving or transferring hospital for providing the services and care which should have been provided. Any person potentially harmed by a violation of this article or the regulations adopted hereunder, or the local district attorney or the Attorney General, may bring a civil action against the responsible hospital or administrative or medical personnel, to enjoin the violation, and if the injunction issues, the court shall award reasonable attorney's fees. The provisions of this subdivision are in addition to other civil remedies and do not limit the availability of the other remedies.

(k) The civil remedies established by this section do not apply to violations of any requirements established by any county or county

agency.

SEC. 10. Section 1317.7 is added to the Health and Safety Code, to read:

1317.7. This article does not preempt any governmental agencies acting within their authority from regulating emergency care or patient transfers, including the imposition of more specific duties, consistent with the requirements of this article and its implementing regulations. Any inconsistent requirements imposed by the Medi-Cal program shall preempt this article with respect to Medi-Cal beneficiaries. To the extent hospitals and physicians enter into contractual relationships with counties which impose more stringent transfer requirements, those contractual agreements shall control.

SEC. 11. Section 1317.8 is added to the Health and Safety Code, to read:

1317.8. If any provision of this article is declared unlawful or unconstitutional in any judicial action, the remaining provisions of this chapter shall remain in effect.

SEC. 12. Section 1317.9 is added to the Health and Safety Code, to read:

1317.9. The state department shall adopt on an emergency basis regulations to implement the provisions of this article by July 1, 1989.

SEC. 13. Section 1317.9a is added to the Health and Safety Code, to read:

1317.9a. (a) This article shall not be construed as altering or repealing Section 2400 of the Business and Professions Code.

(b) Nothing in Sections 1317 et seq. and 1798.170 et seq. shall prevent a physician from exercising his or her professional judgment in conflict with any state or local regulation adopted pursuant to Section 1317 et seq. or 1798.170 et seq., so long as the judgment conforms with Sections 1317, 1317.1, and, except for subdivision (g), Section 1317.2, and acting in compliance with the state or local regulation would be contrary to the best interests of the patient.

SEC. 14. Chapter 2.5 (commencing with Section 1797.98a) is added to Part 1 of Division 2.5 of the Health and Safety Code, to read:

CHAPTER 2.5. THE EMERGENCY MEDICAL SERVICES FUND

1797.98a. Each county may establish an Emergency Medical Services Fund, upon adoption of a resolution by the board of supervisors. The money in the fund shall be available for the reimbursements required by this chapter. The fund shall be administered by each county, except that a county electing to have the state administer its medically indigent services program may also elect to have its Emergency Medical Services Fund administered by the state. Costs of administering the fund shall be reimbursed by the fund, up to 10 percent of the amount of the fund. The fund shall be utilized to reimburse physicians for patients who do not make payment for emergency medical services and for other emergency medical services purposes as determined by each county. Two-thirds

of the money in the fund shall be distributed to physicians for emergency services provided by all physicians, except those physicians employed by county hospitals or district hospitals, in general acute care hospitals that provide basic or comprehensive emergency services up to the time the patient is stabilized, and one-third of the fund shall be distributed for other emergency medical services purposes as determined by each county. The source of the money in the fund shall be the penalty assessment made for this purpose, as provided in Section 1465 of the Penal Code.

1797.98b. Each county establishing a fund, on January 1, 1989, and on each January 1 thereafter, shall report to the Legislature on the implementation and status of the Emergency Medical Services Fund. The report shall include, but not be limited to, all of the following:

(1) The fund balance and the amount of moneys disbursed under the program to physicians and for other emergency medical services purposes.

(2) The pattern and distribution of claims and the percentage of claims paid to those submitted.

(3) The amount of moneys available to be disbursed to physicians, the dollar amount of the total allowable claims submitted, and the percentage at which such claims were reimbursed.

(4) A statement of the policies, procedures, and regulatory action taken to implement and run the program under this chapter.

1797.98c. (a) Physicians wishing to be reimbursed shall submit their losses incurred due to patients who do not make any payment for services and for whom no responsible third party makes any payment. No physicians shall be reimbursed greater than 40 percent of those losses.

(b) If, after payment from the fund, a physician can reasonably expect payment from the patient or a responsible party, then the physician shall continue to make efforts to receive payment, notwithstanding previous payment from the fund. If, after payment from the fund, a physician is reimbursed by a patient or a responsible payor, the physician shall notify the fund and the physician's future submission of claims to the fund shall be reduced accordingly. In the event there is not a subsequent submission of a claim for reimbursement of services by the fund pursuant to this chapter by the physician within one year, the physician shall reimburse the fund in an amount equal to the amount collected from the patient or other payor, but not more than the amount of reimbursement received from the fund for care of that patient.

(c) For the purposes of this chapter, reimbursement for losses incurred due to patients for whom no payment is received shall be restricted to the following:

(1) Patients for whom the physician has inquired if there is a responsible private or public third-party source of payment.

(2) Patients for whom the physician expects to receive reimbursement for the services provided.

(3) Patients for whom the physician has billed for payment, or has billed a responsible private or public third party.

(4) Patients for whom the physician has made reasonable efforts to collect payment.

(5) Claims which have been rejected for payment by the patient and any responsible third party.

For purposes of this chapter, rejection means either of the following:

(A) Actual notification from the person, responsible third party, or governmental agency that no payment will be made for the services rendered by the provider.

(B) The passage of six months' time from the date the physician has billed the patient and made reasonable efforts to obtain reimbursement from the responsible third parties or governmental agencies, and during which time the physician has not been wholly, or in part, reimbursed for providing the services rendered.

(d) A listing of patient names shall accompany a physician's submission, and those names shall be given full confidentiality protections by the administering agency.

1797.98d. One-third of the Emergency Medical Services Fund shall be disbursed for other emergency medical services purposes as determined by each county.

1797.98e. (a) It is the intent of the Legislature that a simplified, cost-efficient system of administration of this chapter be developed so that the maximum amount of funds may be utilized to reimburse physicians and for other emergency medical services purposes. The administering agency shall establish procedures and time schedules for the submission and processing of proposed reimbursement requests submitted by physicians. The schedule shall provide for disbursement of all available money in the fund at least annually on a pro rata basis to all applicants who have submitted accurate and complete data for payment by a date to be established by the administering agency. It is anticipated that the moneys in the Emergency Medical Services Fund will be sufficient to meet only a fraction of the requests for reimbursement from physicians. In this circumstance, the administering agency shall equitably prorate payments so that the amount of payment from the fund is based upon the magnitude of the physician's losses. The administering agency may, as necessary, request records and documentation to support the amounts of reimbursement requested by physicians and the administering agency may review and audit such records for accuracy. Reimbursements requested and reimbursements made that are not supported by records may be denied to and recouped from physicians. Physicians found to submit requests for reimbursement that are inaccurate or unsupported by records may be excluded from submitting future requests for reimbursement.

(b) Each provider of health services which receives payment under this chapter shall keep and maintain records of the services rendered, the person to whom rendered, the date, and any additional

information the administering agency may, by regulation, require, for a period of three years from the date the service was provided.

(c) During normal working hours, the administering agency may make any inspection and examination of a hospital's or physician's books and records needed to carry out the provisions of this chapter. A provider who has knowingly submitted a false request for reimbursement shall be guilty of civil fraud.

SEC. 15. Section 1798 of the Health and Safety Code is amended to read:

1798. (a) The medical direction and management of an emergency medical services system shall be under the medical control of the medical director of the local EMS agency. This medical control shall be maintained in the following manner:

(1) Prospectively by written medical policies and procedures to provide standards for patient care.

(2) Immediately by direct voice communication between a certified EMT-P or EMT-II and a base hospital emergency physician or an authorized registered nurse and, in the event of temporary unavailability of voice communications, by utilization by an EMT-P or EMT-II of authorized, written orders and policies established pursuant to Section 1798.4.

(3) Retrospectively by means of medical audit of field care and continuing education.

(b) Medical control shall be within an EMS system which complies with the minimum standards adopted by the authority, and which is established and implemented by the local EMS agency.

(c) In the event a medical director of a base station questions the medical effect of a policy of a local EMS agency, the medical director of the base station shall submit a written statement to the medical director of the local EMS agency requesting a review by a panel of medical directors of other base stations. Upon receipt of the request, the medical director of a local EMS agency shall promptly convene a panel of medical directors of base stations to evaluate the written statement. The panel shall be composed of all the medical directors of the base stations in the region, except that the local EMS medical director may limit the panel to five members.

This subdivision shall remain in effect only until the authority adopts more comprehensive regulations that supersede this subdivision.

SEC. 16. Section 1798.170 of the Health and Safety Code is amended to read:

1798.170. A local EMS agency may develop triage and transfer protocols to facilitate prompt delivery of patients to appropriate designated facilities within and without its area of jurisdiction. Considerations in designating a facility shall include, but shall not be limited to, the following:

(a) A general acute care hospital's consistent ability to provide on-call physicians and services for all emergency patients regardless of ability to pay.

(b) The sufficiency of hospital procedures to ensure that all patients who come to the emergency department are examined and evaluated to determine whether or not an emergency condition exists.

(c) The hospital's compliance with local EMS protocols, guidelines, and transfer agreement requirements.

SEC. 17. Section 1798.172 of the Health and Safety Code is amended to read:

1798.172. (a) The local EMS agency shall establish guidelines and standards for completion and operation of formal transfer agreements between hospitals with varying levels of care in the area of jurisdiction of the local EMS agency consistent with the provisions of Sections 1317 to 1317.9a, inclusive, and Chapter 5 (commencing with Section 1798). Each local EMS agency shall solicit and consider public comment in drafting guidelines and standards. These guidelines shall include provision for suggested written agreements for the type of patient, initial patient care treatments, requirements of interhospital care, and associated logistics for transfer, evaluation, and monitoring of the patient.

(b) Notwithstanding the provisions of subdivision (a), and in addition to the provisions of Section 1317, a general acute care hospital licensed under Chapter 2 (commencing with Section 1250) of Division 2 shall not transfer a person for nonmedical reasons to another health facility unless that other facility receiving the person agrees in advance of the transfer to accept the transfer.

SEC. 18. Section 1798.205 is added to the Health and Safety Code, to read:

1798.205. Any alleged violations of local EMS agency transfer protocols, guidelines, or agreements shall be evaluated by the local EMS agency. If the local EMS agency has concluded that a violation has occurred, it shall take whatever corrective action it deems appropriate within its jurisdiction, including referrals to the district attorney under Sections 1798.206 and 1798.208 and shall notify the State Department of Health Services if it concludes that any violation of Sections 1317 to 1317.9a, inclusive, has occurred.

SEC. 19. Section 1798.208 of the Health and Safety Code is amended to read:

1798.208. Whenever any person who has engaged, or is about to engage, in any act or practice which constitutes, or will constitute, a violation of any provision of this division, the rules and regulations promulgated pursuant thereto, or local EMS agency mandated protocols, guidelines, or transfer agreements, the superior court in and for the county wherein the acts or practices take place or are about to take place may issue an injunction or other appropriate order restraining the conduct on application of the authority, the Attorney General, or the district attorney of the county. The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that no undertaking shall be required.

SEC. 20. Section 1465 is added to the Penal Code, to read:

1465. In addition to the assessments levied by Section 1464, an additional assessment of one dollar ($1) may be imposed by each county upon the adoption of a resolution by the board of supervisors. An assessment imposed by this section shall be collected and disbursed as provided in Chapter 2.5 (commencing with Section 1797.98a) of Division 2.5 of the Health and Safety Code.

SEC. 21. (a) 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.

(b) The Legislature intends Section 5 of this act to be declaratory of existing law which requires certain governmental payors, including counties under Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code, to provide medical care, including emergency medical services, to certain patients unable to pay for medical services. Therefore, it is not the intent of the Legislature in enacting Section 5 of this act to mandate either a new program or higher level of service and therefore no reimbursement is required by this act for these provisions pursuant to Section 6 of Article XIII B of the California Constitution.

(c) Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1241

An act to add Section 8016 to the Welfare and Institutions Code, relating to public guardians, and making an appropriation therefor.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987]

I am deleting the $240,000 appropriation contained in Section 2 (k) of Senate Bill 1042

This bill would appropriate $240,000 from the General Fund for allocation to four designated counties. These counties would establish an eighteen-month pilot program authorizing their office of public guardian to contract and obtain financial management services for seniors

The demands placed on budget resources require all of us to set priorities The budget enacted in July, 1987 appropriated nearly $41 billion in state funds This amount is more than adequate to provide the necessary essential services provided for by State Government It is not necessary to put additional pressure on taxpayer

funds for programs that fall beyond the priorities currently provided.

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties

I would, however, consider funding the provisions of this bill during the budget process for Fiscal Year 1988–89 It is appropriate to review the relative merits of this program in comparison to all other funding projects The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit

With this deletion, I approve Senate Bill No. 1042

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The Legislature finds and declares that a major cause of premature institutionalization of the elderly is the inability to manage personal financial affairs, that conservatorship is a highly instrusive action to take to solve a senior's financial problems, that lower level financial services would resolve many of the problems confronted by the elderly, and that the most efficient method of delivering case-management services which addresses this problem confronted by the elderly is through the use of programs which already provide the best integrated case-management services, such as the Linkages Program and the Multipurpose Senior Services Program.

SEC. 2. Section 8016 is added to the Welfare and Institutions Code, to read:

8016. (a) The public guardian shall enter into a contract or written agreement with eligible private or public nonprofit agencies to provide those services in subdivision (c) to seniors.

(b) Eligible agencies shall only include those agencies which provide case management services to seniors. Preference shall be given to proposals from those agencies which are providing case management services to seniors under the Institutionalization Prevention Services Program, also referred to as the Linkages Program, pursuant to Sections 9390, and following, or the Multipurpose Senior Services Program.

(c) Services which may be provided to seniors pursuant to subdivision (a) include all of the following:

(1) Financial counseling for elders in need of assistance in the management of their income or referral to an appropriate agency.

(2) Assistance for elders in payment of bills, mailing checks, organizing a budget, and other fiscal administrative jobs when the elders are able to manage their own finances, but due to a disability, such as vision loss, loss of motor functioning, or mild confusion, need regular assistance.

(3) Provision of representative payee services for elders with a mental or physical disability or a drug or alcohol problem who cannot manage their money and who receive checks from any government agencies. The representative payee services shall be provided by the public guardian, and the contracting agency shall be responsible for budgeting. The public guardian shall be responsible for auditing

expenditures authorized by the contracting agency.

(4) Durable power of attorney for elders who are unable to manage their finances, who are competent when the power of attorney is created, and who agree to financial management assistance.

(5) Conservatorship services for elders who are unable to manage their finances or other aspects of daily living and who are not competent.

(d) This section is not intended to prevent either the public guardian or the contracting service agencies from exercising power of attorney or placing clients on conservatorship as appropriate.

(e) Elders who are competent shall be required to authorize, in writing, the commencement or termination of financial services under this section.

(f) Any agency contracting for the provision of services under this section and the public guardian may charge fees for those services provided by each, at a rate based on the type and amount of services provided and the ability of the elders to pay. Fees charged under this section shall not exceed the usual and customary rates charged by similar providers, and shall be limited to the costs of administering these programs.

(g) Any provider of services under this section shall only be liable for actual damages in the event of malfeasance or self-dealing.

(h) The provision of services under this section shall be an 18-month pilot program, in which any or all of the Counties of Los Angeles, Orange, San Francisco, and Yolo may, upon request for funding, participate.

(1) Counties' public guardians shall notify the Controller of their intention to participate by January 31, 1988.

(2) The Controller shall notify each interested county's public guardian of the amount available for allocation to the county according to the formula in subdivision (k) by March 1, 1988.

(3) Public guardians in participating counties shall issue requests for proposals by April 1, 1988.

(i) Not less than 85 percent of the funds appropriated for the pilot program shall be used for the purposes of the program, and not more than 15 percent of the funds appropriated may be used for administrative costs incurred by the public administrator in the pilot program.

(j) As part of the administrative function, the public guardian in each participating county shall, by May 1, 1989, submit a report to the Legislative Analyst's office, which shall include, but not be limited to, the following data:

(1) The total number of seniors served by the program.

(2) The number of seniors served at each level of service described in subdivision (c).

(3) The number of seniors which reasonably have been diverted from conservatorship or institutionalization due to their participation in the program.

(4) Total amount of money raised for the program through the use of fees charged, and the degree to which use of fees assisted in furtherance of the program.

(k) The sum of two hundred forty thousand dollars ($240,000) is appropriated for the duration of the pilot program, without regard to fiscal years, from the General Fund to the Controller, for allocation to eligible counties requesting funding for commencement of the program established pursuant to this act. The funds shall be allocated in the following manner:

(1) The Controller shall allot to each participating county a base amount of thirty thousand dollars ($30,000).

(2) The Controller shall divide the remainder of the two hundred forty thousand dollars ($240,000) as follows:

(A) The Controller shall add together the total number of persons placed on probate conservatorship in each participating county.

(B) The Controller shall add to each county's base amount an amount equal to the percentage that each county's number of persons on conservatorship is to the total number of conservatorships among the participating counties.

(C) No single county's allotment under the formula for this section shall exceed ninety thousand dollars ($90,000). If any county's total allotment exceeds ninety thousand dollars ($90,000), the amount over ninety thousand dollars ($90,000) shall be apportioned to the remaining participating counties based on the percentage that each of the remaining county's number of persons on conservatorship is to the total number of conservatorships among those remaining counties.

CHAPTER 1242

An act to add Section 42925.1 to the Education Code, relating to foster care children, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987]

I am deleting the $100,000 appropriation contained in Section 3 of Senate Bill 1360

This bill appropriates $100,000 from the Foster Children and Parent Training Fund to the Legislative Analyst to contract for a comparative study to evaluate the effectiveness of foster youth services programs offered in four school districts. If the programs are found to be cost effective, moneys are to be made available from the Foster Children and Parent Training Fund to expand the programs to other districts beginning in the 1989–90 fiscal year.

The demands placed on budget resources require all of us to set priorities The budget enacted in July, 1987 appropriated nearly $41 billion in state funds. This amount is more than adequate to provide the necessary essential services provided for by State Government. It is not necessary to put additional pressure on taxpayer funds for programs that fall beyond the priorities currently provided.

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties.

I would, however, consider funding the provisions of this bill during the budget process for Fiscal Year 1988–89. It is appropriate to review the relative merits of this program in comparison to all other funding projects. The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit.

With this deletion, I approve Senate Bill No. 1360

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 42925.1 is added to the Education Code, to read:

42925.1. (a) In order to provide the Legislature and Governor with an independent assessment of the cost effectiveness of foster youth services programs offered in school districts, the Legislative Analyst shall contract for a study to compare and evaluate these programs.

(b) The study shall utilize data regarding foster children, to the extent that it is available, from districts with foster youth programs and comparable districts without foster youth programs. The data shall include, but need not be limited to, information on the following:

(1) Academic achievements.

(2) School attendance.

(3) Length and stability of foster care placements while in the program.

(4) Number of credits earned.

(5) Employment at or subsequent to emancipation.

(c) The study shall focus primarily on students receiving foster youth services for a minimum of three months and shall estimate, to the extent possible, the long-term cost-avoidance to the state that is associated with providing services to these pupils.

The request for proposals to conduct this study shall be developed in consultation with representatives of the foster youth services programs. The State Department of Education, the State Department of Social Services, and the Department of the Youth Authority shall provide the Legislative Analyst or his or her contractor any existing data requested in order to conduct the study.

(d) The study shall also examine the extent to which district attorneys throughout the state secure court orders and resultant collections for child support of foster children.

(e) The Legislative Analyst shall submit a report to the Legislature detailing the results of the study no later than April 15, 1989.

(f) If the report submitted by the Legislative Analyst makes a finding that school district foster children services programs are program effective and provide potential cost savings, the Legislature approves the finding by statute, and the applicable state administrators approve the finding in writing and transmit their approval to the Legislature, in accordance with the legislative finding and declaration of subdivision (b) of Section 42920, the

expansion of the school programs shall be a state priority.

SEC. 2. It is the intent of the Legislature that, in order to minimize duplication, the study shall utilize, to the extent feasible, data collected pursuant to Provision 3 of Item 6100-119-001 of Section 2 of the 1986 Budget Act. The Legislature hereby finds and declares that it did not intend by enacting Provision 3 of Item 6100-119-001 of Section 2 of the 1986 Budget Act to require a comparative study of school districts offering foster youth services.

SEC. 3. The sum of one hundred thousand dollars ($100,000) is hereby appropriated to the Legislative Analyst from the collections deposited in the Foster Children and Parent Training Fund pursuant to subdivision (b) of Section 903.7 of the Welfare and Institutions Code, for the purpose of the study specified in Section 42925.1 of the Education Code. The appropriation shall be made prior to all other allocations authorized by Section 903.7 of the Welfare and Institutions Code and shall not be made from moneys other than those which have been transferred to the Foster Children and Parent Training Fund for foster parent training from collections pursuant to subdivision (b) of Section 903.7 of the Welfare and Institutions Code. If the sum of one hundred thousand dollars ($100,000) or any portion thereof is not available in the Foster Children and Parent Training Fund, that sum, or an amount necessary to bring the total appropriation under this act to one hundred thousand dollars ($100,000), is hereby appropriated from the General Fund.

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 the Legislature and the Governor with the cost effectiveness of foster youth services in schools, at the earliest possible time, it is essential that this act take effect immediately.

CHAPTER 1243

An act to amend Sections 2813 and 2814 of the Public Resources Code, relating to seismic safety, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987.]

I am deleting the $200,000 appropriation contained in Section 3 of Senate Bill No 1410

This bill would appropriate $200,000 to the Office of Emergency Services (OES) for furthering comprehensive earthquake preparedness in San Diego and Imperial Counties

The demands placed on budget resources require all of us to set priorities The budget enacted in July, 1987 appropriated nearly $41 billion in state funds This amount is more than adequate to provide the necessary essential services provided for by State Government. It is not necessary to put additional pressure on taxpayer funds for programs that fall beyond the priorities currently provided

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties.

I would, however, consider funding the provisions of this bill during the budget process for Fiscal Year 1988–89. It is appropriate to review the relative merits of this program in comparison to all other funding projects The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit

With this deletion, I approve Senate Bill No. 1410.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 2813 of the Public Resources Code is amended to read:

2813. The Southern California Earthquake Preparedness Project and the Bay Area Regional Earthquake Preparedness Project shall continue to June 30, 1990, in order to further comprehensive earthquake preparedness planning in southern and northern California and to help achieve a significant reduction of earthquake hazards by January 1, 2000. The Southern California Earthquake Preparedness Project area shall include the Counties of San Diego and Imperial.

SEC. 2. Section 2814 of the Public Resources Code is amended to read:

2814. The earthquake preparedness activities established under this chapter shall be carried out by the office. The commission and office shall work together and use appropriate scientific information and recommendations provided by the division. Other arrangements to coordinate the activities established by this chapter shall be made, through mutual agreement, by the commission and the office. A local advisory board shall be established to provide advice and guidance on project activities in the Counties of San Diego and Imperial.

SEC. 3. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund for the 1987–1988 fiscal year to the Office of Emergency Services for support and operational expenses to further comprehensive earthquake preparedness in the Counties of San Diego and Imperial.

It is the intent of the Legislature that the office receive an equivalent level of financial support to support earthquake preparedness in the Counties of San Diego and Imperial in the 1988–89 and 1989–90 fiscal years. This act is an urgency statute necessary for the immediate preservation of the public peace, 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 become operative near the beginning of the 1987–88 fiscal year, and so facilitate the orderly administration of the act, it is necessary that this act take effect immediately.

CHAPTER 1244

An act to add and repeal Section 26501.5 of the Health and Safety Code, relating to food, and making an appropriation therefor.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987.]

I am deleting the $150,000 appropriation contained in Section 2 of Assembly Bill 78

This bill would require the Department of Health Services to conduct a survey of imported foods to determine the extent to which they contain contaminants of health concern.

The demands placed on budget resources require all of us to set priorities The budget enacted in July, 1987 appropriated nearly $41 billion in state funds. This amount is more than adequate to provide the necessary essential services provided for by State Government. It is not necessary to put additional pressure on taxpayer funds for programs that fall beyond the priorities currently provided

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties.

I would, however, consider funding the provisions of this bill during the budget process for Fiscal Year 1988–89. It is appropriate to review the relative merits of this program in comparison to all other funding projects. The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit.

With this deletion, I approve Assembly Bill No 78

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 26501.5 is added to the Health and Safety Code, to read:

26501.5. The director shall conduct a survey of imported foods destined for California consumers to determine the extent that the foods bear or contain contaminants of health concern. In conducting this survey the director shall do all of the following:

(a) Identify imported food commodities which are most likely to bear or contain contaminants of health concern.

(b) Analyze at least 3,000 samples of imported food commodities over a three-year period for the presence of contaminants of health concern including, but not limited to, microbes, heavy metals, pesticides, food additives, color additives, filth, natural toxicants such as aflatoxins, solvents, and industrial chemicals.

(c) Coordinate the survey with the imported food monitoring program of the United States Food and Drug Administration so that the survey compliments and does not duplicate the federal program.

(d) Take appropriate corrective and enforcement actions when violative products are found.

A final report, which shall consist of the results of this survey, together with recommendations concerning the need for this type of monitoring on a continuing basis, shall be submitted to the Legislature by March 1, 1991. Annual reports describing the survey's findings from the previous year shall be submitted to the Legislature on or before March 1, beginning in 1989.

"Imported food," as used in this section, means food that is

processed or manufactured in a foreign country and imported into the United States.

This section shall become inoperative on April 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the General Fund to the State Department of Health Services for the period January 1, 1988, through June 30, 1988, for the purposes of Section 26501.5 of the Health and Safety Code. Any funds required subsequently for the purposes of Section 26501.5 of the Health and Safety Code shall be appropriated in the annual Budget Act.

CHAPTER 1245

An act to add Chapter 2 (commencing with Section 99100) to Part 65 of Title 3 of the Education Code, relating to postsecondary education, and making an appropriation therefor.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987]

I am deleting the $240,000 appropriation contained in proposed Education Code Section 99106 contained in Assembly Bill No 1820

This bill would create the Human Corps within the University of California and the California State University, and would encourage students to participate in the Human Corps by providing an average of 30 hours of community service in each academic year.

Both the University of California and the California State University have ongoing student volunteer community service activities The administrative structure is in place to accommodate activities proposed by this bill. No additional funds are required.

With this deletion, I approve Assembly Bill No 1820

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Chapter 2 (commencing with Section 99100) is added to Part 65 of Title 3 of the Education Code, to read:

CHAPTER 2. HUMAN CORPS

99100. (a) The Legislature finds and declares all of the following:

(1) California students have a long and rich tradition of participation in community service which should be recognized, commended, and expanded.

(2) There is a growing national consensus that student participation in community services enhances the undergraduate experience.

(3) Student community service is an activity of extreme

importance to the mission of the university and deserves to be conducted both for academic credit and otherwise.

(4) The state's postsecondary educational institutions are charged to maintain a tradition of public service as well as teaching and research.

(5) Access to the privilege of attending the university is made possible for many by our state's tradition of keeping fees and tuition low.

(6) Practical learning experiences in the real world are valuable for the development of a student's sense of self, skills, and education.

(7) Our state faces enormous unmet human needs and social challenges including undereducated children, increasing illiteracy and teenage parenting, environmental contamination, homelessness, school dropouts, and growing needs for elder care.

(8) The state's ability to face these challenges requires policymakers to find creative and cost-effective solutions including increased efforts for community and student public service.

(9) The Legislature and the State of California provide substantial incentives and subsidies for its citizens to attend the state's postsecondary education institutions, public and private, which are among the finest in the world.

(10) Current volunteer efforts conducted by community organizations reach only a fraction of the need. The need for public service is great because private, state, and federal funding are insufficient to pay for all the social services needed.

(11) Existing community service efforts have successfully demonstrated that participation in public service is of mutual benefit to participating students and the recipients of their services.

(b) It is the intent of the Legislature in enacting this article to do all of the following:

(1) Complete the college experience by providing students an opportunity to develop themselves and their skills in real-world learning experiences.

(2) To help nurture a sense of human community and social responsibility in our college students.

(3) Invite the fullest possible cooperation between postsecondary education institutions, schools, public, private, and nonprofit agencies, and philanthropies to plan, fund, and implement expanded opportunities for student participation in community life through public service in organized programs.

(4) To substantially increase college student participation in community services by June 30, 1993, with the ultimate goal of 100 percent participation.

99101. There is hereby created a program known as The Human Corps within the University of California and the California State University. The California Community Colleges, proprietary schools, and member institutions of the Association of Independent California Colleges and Universities are strongly encouraged to implement Human Corps programs. The purpose of the corps is to

provide every student an ongoing opportunity throughout his or her college career to participate in a community service activity. Toward this goal, beginning in the fall term in 1988, full-time students, including both undergraduate and graduate students, entering the University of California, the California State University, or an institution that is a member of the Association of Independent California Colleges and Universities to pursue a degree shall be strongly encouraged and expected, although not required, to participate in the Human Corps by providing an average of 30 hours of community service in each academic year. The segments shall determine how to encourage and monitor student participation. The segments are strongly encouraged to develop flexible programs that permit the widest possible student involvement, including participation by part-time students and others for whom participation may be difficult due to financial, academic, personal, or other considerations.

99102. For the purposes of this article, community service shall be defined as work or service performed by students either voluntarily or for some form of compensation or academic credit through nonprofit, governmental, and community-based organizations, schools, or college campuses. In general, the work or service should be designed to provide direct experience with people or project planning, and should have the goal of improving the quality of life for the community. Eligible activities may include, but are not limited to, tutoring, literacy training, neighborhood improvement, increasing environmental safety, assisting the elderly or disabled, and providing mental health care, particularly for disadvantaged or low-income residents.

In developing community service programs, campuses shall emphasize efforts which can most effectively use the skills of students such as tutoring programs or literacy programs.

99103. There are hereby created Human Corps task forces in each segment, which shall be established on each campus by March 1, 1988. Community colleges and member institutions of the Association of Independent California Colleges and Universities are strongly encouraged to establish task forces for the purposes set forth in this section. Each task force shall be composed of students, faculty, and campus administration. Each task force also shall include community representatives from groups such as schools, local businesses and government, nonprofit associations, social service agencies, and philanthropies. Each task force shall reflect the ethnic and racial diversity of the institution and the surrounding community. The purpose of the task forces is to strengthen and coordinate existing oncampus and external community service opportunities, expand and make new service opportunities available, promote the Human Corps to make students, community groups, faculty, employment recruiters, and administrators aware of the service expectation, and develop rules and guidelines for the program.

In conducting their charges, campus task forces should develop an implementation strategy which includes but is not limited to, the following, by July 1, 1988:

(a) A survey of the existing level of student participation including number of students, amount of time allocated, sources, and amounts of funds for activities and types of agencies participating.

(b) A plan to substantially expand student participation in community service by June 30, 1993.

(c) Criteria for determining what activities reasonably qualify as community service.

(d) Criteria to determine which community agency and campus programs have the training, management, and fiscal resources, and a track record or potential for success in addressing social needs and can reasonably use additional student assistance to administer their programs.

(e) A statement regarding the institution's commitment to community service to be included in application and orientation materials to communicate the expectation for student participation in community service.

(f) A statement that each campus has examined, in close consultation with the faculty, how student community service may be implemented to complement the academic program, including a determination of whether and how Human Corps programs may be offered for academic credit.

(g) A budget which identifies the staff and funding resources needed on each campus to implement this Human Corps.

99104. It is the intent of the Legislature that segments maximize the use of existing resources to implement the Human Corps. This responsibility includes seeking the resources of the private and independent sectors, philanthropies, and the federal government to supplement state support for Human Corps programs. The Legislature intends that the funds appropriated for purposes of this chapter to the Regents of the University of California and the Trustees of the California State University be used to offset some of the costs of developing the Human Corps. The segmental and campus Human Corps Task Forces shall jointly determine how those funds are used. It is the further intent of the Legislature that funds be allocated competitively for programs and not on a pro rata basis for each campus. Preference in funding should be given to strengthen and expand exemplary efforts to implement the Human Corps and to stimulate new efforts on campuses where the establishment of student community service programs has been limited.

Campuses may develop numerous approaches to implement the Human Corps on each campus. Activities eligible for funding may include a wide variety of incentives for student participation such as:

(a) Recognition programs.

(b) Fellowships.

(c) Awareness programs.

(d) Periodic conferences for students and community organizations.

(e) Transportation costs.

(f) Matching grants.

(g) Intersegmental programs.

99105. The California Postsecondary Education Commission annually, by March 31, shall conduct reports on the progress that the University of California and the California State University are making to substantially increase student participation in the Human Corps. By March 31, 1994, the commission shall conduct a comprehensive evaluation which shall include, but not be limited to, the following:

(a) The number of students who completed participation in the Human Corps by academic area (humanities, social services) and academic level (freshman, sophomore, etc.).

(b) The number of students who volunteered, or received pay or academic credit for service.

(c) An inventory of the types of community agencies which participated and the types of opportunities they provided.

(d) An inventory of the types of incentives for student participation offered by campuses including awards, grants, and training.

(e) The number of courses related to Human Corps programs.

(f) The number of staff and sources of funding provided to the Human Corps on each campus.

(g) A survey of participating agencies to determine whether the addition of student resources enhanced their program.

(h) The number of community colleges which participated in the Human Corps.

(i) Recommendations for continuation of the Human Corps including a recommendation whether a mandatory program should be established to the extent that community service programs failed to produce a substantial increase in student participation in the Human Corps. It is the intent of the Legislature to provide funding for the evaluation.

(j) The commission shall convene a meeting of representatives from the University of California and the California State University to determine the appropriate data requirements for the progress reports and the comprehensive evaluation. All progress reports and the comprehensive evaluation shall be submitted to the appropriate fiscal and policy committees of the Legislature.

99106. The sum of seventy thousand dollars ($70,000) is hereby appropriated from the General Fund to the Regents of the University of California and one hundred seventy thousand dollars ($170,000) to the Trustees of the California State University for the purposes of this chapter in the 1987–88 fiscal year. Future funding shall be contingent upon Budget Act appropriations. No provision of this article shall apply to the University of California unless the Regents of the University of California, by resolution, make that provision applicable.

CHAPTER 1246

An act to amend Sections 17717.5 and 42250.1 of, to add Section 17788.3 to, and to add Chapter 2.5 (commencing with Section 37300) to Part 22 of, the Education Code, relating to schools, and making an appropriation therefor.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) A year-round educational program, known as the Orchard Plan, appears to have been successful in expanding school capacity without new construction, while reducing overall costs of teacher benefits without reducing the level of those benefits, raising teacher salaries commensurate with extra days of work, and reducing the number of new teachers required by a participating school.

(b) A year-round educational program either may provide extra days of instruction for pupils with greater educational needs or reduce average class size.

(c) It is in the interests of this state to establish a demonstration project that will determine whether the Orchard Plan is an effective approach for meeting the needs of public schools in this state and, if so, to provide a blueprint for implementation of the program in California.

(d) It is the intent of the Legislature that schools participating in the Orchard Plan shall receive three payments of sixty thousand dollars ($60,000) each, commencing with the approval of their application to meet the expenses for designing and planning the program, and for two years of operation thereafter. It is further the intent of the Legislature that the State Department of Education shall receive funds adequate to monitor and provide technical assistance to schools participating in the Orchard Plan.

SEC. 2. Section 17717.5 of the Education Code is amended to read:

17717.5. (a) The board may approve, in whole or in part, an application submitted by a school district under Section 17717 or 17720 in an amount not exceeding the amount applied for as the board may deem appropriate.

(b) The board may, upon approval of the application, in whole or in part, and subsequently from time to time, make additional approvals not exceeding in the aggregate the total amount determined by the board under subdivision (a) for the portion or portions of the project for which the board determines the district

is ready to proceed.

(c) Whenever a district files an application, the board shall require the district to submit a five-year plan for construction and rehabilitation of school facilities. The plan shall include, but not be limited to, facility need, type, and grade level, and a description of the district's compliance with Section 17722. The plan may be adjusted to reflect adjusted growth targets.

(d) The board shall not approve any application under this chapter after January 1, 1990, unless accompanied by a study examining the feasibility of implementing in the district a year-round multitrack educational program that is designed to increase pupil capacity in the district or in overcrowded high school attendance areas by at least 20 percent.

(e) Commencing July 1, 1989, first priority for the approval of project funding for new construction under this chapter shall be accorded to applicant districts that demonstrate to the board either of the following:

(1) At least 10 percent of district pupils or 20 percent of pupils in the high school attendance area for which the district is applying for new facilities, in kindergarten or any of the grades 1 to 6, inclusive, are enrolled, or will be enrolled no later than July 1, 1990, in year-round multitrack educational programs. However, if 10 percent of the district's population in kindergarten and grades 1 to 6, inclusive, represents less than one school, then at least one school shall be on a year-round multitrack educational program.

(2) At least 30 percent of district pupils in kindergarten or any of the grades 1 to 6, inclusive, or 40 percent of pupils in the high school attendance area for which the school district is applying for new facilities are enrolled, or will be enrolled no later than July 1, 1992, in year-round multitrack educational programs.

(f) The board may waive subdivision (d) or (e), or both, if a school district demonstrates that these requirements will result in a particular educational or financial hardship to the district. Further, the board shall waive subdivision (d), if it finds that there is clear hardship to a district due to declining enrollment or no growth.

SEC. 3. Section 17788.3 is added to the Education Code, to read:

17788.3. (a) No school district shall qualify for the lease under this chapter, after January 1, 1990, of one or more portable classrooms except upon submitting a study examining the feasibility of implementing in the district a year-round multitrack educational program that is designed to increase pupil capacity in the district by at least 20 percent.

(b) Emergency or urgency conditions within a school district shall constitute grounds for approval by the State Allocation Board, pending submission of the report.

(c) Subdivision (a) shall not apply to facilities which are designated as uninhabitable after July 1, 1989, due to fire or other health or safety conditions.

SEC. 4. Chapter 2.5 (commencing with Section 37300) is added

to Part 22 of the Education Code, to read:

CHAPTER 2.5. YEAR-ROUND SCHOOL DEMONSTRATION PROJECT

37300. No later than March 30, 1988, the Superintendent of Public Instruction shall distribute to each elementary and unified school district in this state an application form for participation in the year-round school demonstration project provided for under this chapter, together with relevant information regarding the program.

37301. No later than July 1, 1988, any elementary or unified school district may submit an application to the Superintendent of Public Instruction for participation, on the part of any one elementary school in the district, in the program set forth in this chapter pursuant to the following conditions:

(a) The school district demonstrates that, as of September 1, 1988, its projected pupil enrollment for that school will exceed the pupil capacity of that school, as determined by that district, by at least 10 percent.

(b) The school district demonstrates its ability to comply with the program requirements set forth in this chapter.

(c) The application has been approved by the local collective bargaining units representing certified and classified district employees and by the school site council, if any, established pursuant to Section 52012 or 52852.

37302. Any school district selected for participation in the program set forth in this chapter shall design, implement, and evaluate a program for the participating school in the district, with technical assistance from the State Department of Education if requested by the district, which program shall include, but not necessarily be limited to, all of the following:

(a) An 11-month school calendar for five tracks of pupils, under which the school is closed for one month for purposes of maintenance and staff vacations. Pupils in each track shall attend the school for at least three 12-week academic terms during the school year. Each teacher shall be assigned a single classroom and a single class of pupils. Each class shall be composed of pupils from all five tracks and from all academic ability levels and socioeconomic backgrounds found in the school.

(b) The teaching contract for each permanent full-time teacher at the school shall provide for an 11-month teaching year, the one-month vacation described in subdivision (a), a common winter holiday of approximately two weeks, and a common spring holiday of approximately one week.

(c) One of the following:

(1) In addition to the instruction provided in the school year described in subdivision (a), not less than 50 hours of instruction during the interim sessions occurring between the 12-week academic terms, to be provided to each pupil who is eligible to participate in categorical education programs designed to meet the

special needs of children whose educational needs are not fully met in the regular educational program. This instruction may be funded by categorical education program funds or any other funding available to the district for this purpose. This option shall be available only to those schools in which more than 20 percent of the pupils qualify for funds from any of the following statutory programs: the Miller-Unruh Basic Reading Act of 1965; Economic Impact Aid, other than the bilingual education element; and any other compensatory education program approved for this purpose by the Superintendent of Public Instruction.

(2) Class size reduction, in all classes conducted in the 12-week academic terms, of at least three pupils per class, with a total average class size not to exceed 29 pupils.

(d) The school year-round program, as set forth in this chapter, shall commence operation on or before September 1, 1989, inclusive, and shall be continued by the district for a period of not less than four years from the date operation of the program commenced. The failure by any school district to comply with this subdivision shall result in the termination of funding to that district under this chapter, and the requirement that the district repay to the Superintendent of Public Instruction all moneys allocated to the district under this chapter, which repayment obligation may be enforced by the superintendent by the retention of funds from the annual apportionment to the district calculated under Section 42238, in an amount not to exceed sixty thousand dollars ($60,000) in any fiscal year.

37303. The Superintendent of Public Instruction shall do all of the following:

(a) No later than August 1, 1988, select five elementary schools for participation in the program set forth under this chapter, from five different elementary or unified school districts submitting applications pursuant to Section 37301. At least two of the five participating elementary schools shall operate pursuant to paragraph (1) of subdivision (c) of Section 37302. The superintendent shall consult with individuals familiar with the operation of the plan pursuant to Section 37302 as appropriate in the administration of this chapter.

(b) Upon the selection of any school for participation in the program, allocate the sum of sixty thousand dollars ($60,000) from funds specifically appropriated for this purpose to that school district for the costs of designing and planning the program to be operated by that school under this chapter.

(c) Upon the commencement of program operation by a participating school, allocate the sum of sixty thousand dollars ($60,000) from funds specifically appropriated for this purpose to that school district for the costs of program operation. The superintendent shall allocate an additional sum of sixty thousand dollars ($60,000) to the school district for program operation purposes upon the commencement of the second year of program

operation by that school.

37304. (a) Each school district having a school participating in the program set forth in this chapter shall report to the Superintendent of Public Instruction the following data for that school for the 1987–88 fiscal year and for each fiscal year of program operation thereafter:

(1) The number of pupils served.

(2) Annual teacher salary information.

(3) Annual teacher benefits costs per pupil, compared to districtwide teacher benefits costs per pupil.

(4) Class size, compared to comparable schools in that district operating under a traditional school calendar.

(5) Pupil and teacher absentee rates, compared to comparable schools in that district operating under a traditional school calendar.

(6) Current expenses of education, compared to comparable schools in that district operating under a traditional school calendar.

(7) A description of interim session instruction, where offered, and identification of the source and amount of funding used for that purpose.

(8) Pupil achievement scores for pupils receiving interim session instruction pursuant to this chapter, compared to pupil achievement scores for pupils in comparable schools in that district operating under a traditional school calendar who also qualify for the funding sources described in paragraph (1) of subdivision (c) of Section 37302.

(9) Pupil achievement scores for all pupils, compared to pupil achievement scores for all pupils in comparable schools in that district operating under a traditional school calendar.

(10) Data on parent, teacher, and community satisfaction with the program, including identification of the number of teachers choosing to leave the program.

(b) For any school district in which there is no school operating under a traditional school calendar that is comparable, with regard to pupil demographics, to the school participating under the program, the district shall seek to make the comparisons required under subdivision (a) to comparable schools operating on a traditional school calendar in neighboring school districts.

(c) No later than December 1, 1990, each school district having a school participating in the program shall submit to the Superintendent of Public Instruction a guide for use by other school districts in this state in implementing a year-round school program, based upon the information described in subdivision (a), to the extent available, and on any other information deemed by the district to be useful for this purpose.

37305. Any program operated under this chapter shall be deemed to be successful to the extent that, after two years of operation, the participating school has achieved the following objectives:

(a) Pupil enrollment is increased by at least 18 percent, or, in "low

growth" schools, by at least 10 percent.

(b) Annual teacher salary for those teachers working on an 11-month contract is increased by at least 20 percent over the annual teacher salary for those teachers working the traditional school year.

(c) An annual savings of at least 8 percent in teacher benefits costs.

(d) In "low growth" schools, average class size is reduced by at least three pupils.

(e) Excluding program startup costs and year-round incentive payments, operating costs of the program do not exceed operating costs of the school under a traditional school calendar.

(f) Pupils receiving interim session instruction pursuant to this chapter show greater improvement in academic performance than pupils in comparable schools in that district operating under a traditional school calendar who also qualify for the funding sources described in paragraph (1) of subdivision (c) of Section 37302.

(g) Average pupil achievement scores for all pupils equal or exceed the average pupil achievement scores for all pupils in that school for each of the three school years preceding the operation of the program set forth in this chapter.

(h) At least 60 percent of parents and teachers express support for the program.

(i) Pupil and teacher absentee rates do not exceed those rates for the school as determined for the 1987–88 school year.

(j) At least 70 percent of the eligible pupils, as specified in paragraph (1) of subdivision (c) of Section 37302, attend the interim session classes.

37306. If, according to the evaluation criteria set forth in Section 37305, the program at a participating school is deemed unsuccessful after submission of data for the year 1990, the school district in which the school is located may request termination of project participation, contingent upon the approval of the Superintendent of Public Instruction.

37307. Notwithstanding any provision of Section 42250.3, any school district having a school participating pursuant to paragraph (1) of subdivision (c) of Section 37302 in the program set forth in this chapter shall be entitled to the greater of seventy-five dollars ($75) per pupil or the amount the school district would otherwise qualify for in year-round incentive payments authorized under that section for each pupil in the participating school for each year of program operation under this chapter.

SEC. 5. Section 42250.1 of the Education Code is amended to read:

42250.1. (a) From funds appropriated by the Legislature for this purpose for any fiscal year, the board shall allocate to school districts selected by the board pursuant to this section, funding for the expenses of air-conditioning equipment and insulation materials, and for the costs 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.

(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 subdivision (a). 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. In addition, all schools participating in the demonstration program provided pursuant to Chapter 2.5 (commencing with Section 37300) of Part 22 and satisfying the criteria set forth in this subdivision shall be eligible to receive, and given priority for, the maximum allocation of funds under this section.

SEC. 6. Neither Section 2 nor Section 3 of this act shall be construed to require that any school district adopt, or review for adoption, the Orchard Plan or any other particular year-round educational program.

SEC. 7. The sum of twenty thousand dollars ($20,000) is appropriated from the General Fund to the Superintendent of Public Instruction for administrative costs incurred pursuant to Chapter 2.5 (commencing with Section 37300) of Part 22 of the Education Code, including, but not limited to, costs incurred by the State Department of Education for technical assistance rendered pursuant to Section 37302 of the Education Code.

CHAPTER 1247

An act to add Section 1191.3 to the Penal Code, relating to sentencing.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987.]

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

SECTION 1. This act shall be known and may be cited as the Davis-Areias Truth in Sentencing Act.

SEC. 2. (a) The Legislature hereby finds and declares that it is essential to the fair and impartial administration of justice to inform the victim or victims of a criminal offense that a defendant sentenced to a period of incarceration in a county jail or in the state prison may be eligible, pursuant to current provisions of law, for presentence custody credits and conduct and worktime credits.

(b) The Legislature further finds that victims of crimes and the

public are unaware that the term of sentence imposed is rarely the term of sentence actually served by the defendant.

SEC. 3. Section 1191.3 is added to the Penal Code, to read:

1191.3. (a) At the time of sentencing or pronouncement of judgment in which sentencing is imposed, the court shall make an oral statement that statutory law permits the award of conduct and worktime credits up to one-third or one-half of the sentence that is imposed by the court, that the award and calculation of credits is determined by the sheriff in cases involving imprisonment in county jails and by the Department of Corrections in cases involving imprisonment in the state prison, and that credit for presentence incarceration served by the defendant is calculated by the probation department under current state law.

As used in this section, "victim" means the victim of the offense, the victim's parent or guardian if the victim is a minor, or the victim's next of kin.

(b) The probation officer shall provide a general estimate of the credits to which the defendant may be entitled for previous time served, and conduct or worktime credits authorized under Sections 2931, 2933, or 4019, and shall inform the victim pursuant to Section 1191.1. The probation officer shall file this estimate with the court and it shall become a part of the court record.

(c) This section applies to all felony convictions.

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 1248

An act relating to public social services, and making an appropriation therefor.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987]

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

SECTION 1. It is the intent of the Legislature that the State Department of Health Services review costs incurred by providers who had been approved by the California Medical Assistance Commission for participation in the Expanded Choice Pilot Project and provide fair reimbursement for those expenditures which the providers will not be able to offset or amortize with revenue from other operations. The reimbursement provided shall be limited to

the amount appropriated by this act. This provision does not indicate that the Legislature acknowledges any legal obligation to reimburse providers.

SEC. 2. The sum of one million dollars ($1,000,000) is hereby appropriated from the General Fund to the State Department of Health Services to implement this act.

CHAPTER 1249

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

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987.]

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

SECTION 1. The Legislature finds and declares that the Central School District in San Bernardino County entered into an agreement on October 10, 1984, with a developer of property within the district, which agreement, as last amended January 15, 1986, contained the following terms and conditions:

(a) The developer is required to make available to the school district certain interim school facilities for kindergarten and grades 1 to 6, inclusive, and to pay to the school district a sum of money for the district's cost of providing interim school facilities for grades 7 and 8.

(b) Title to the interim school facilities made available for kindergarten and grades 1 to 6, inclusive, is retained by the developer, as is title to the land on which those facilities are located. At such time as the school district has available to it for occupancy permanent school facilities funded pursuant to Chapter 22 (commencing with Section 17700) of Part 10 of the Education Code, possession of the interim school facilities is to be returned to the developer, such that the facilities would not be available for continued occupancy, lease, or purchase by the school district.

(c) As a condition to the benefits conferred by the developer, as described in subdivision (a), the school district may not impose upon the developer's project any other fee or requirement.

SEC. 2. Under any application for project funding filed by the Central School District on or after January 1, 1987, pursuant to Chapter 22 (commencing with Section 17700) of Part 10 of the Education Code, the amount of the district's matching share under that chapter, notwithstanding Section 17705.5 of the Education Code, shall be, as to any construction occurring under the development project referenced under the agreement described in Section 1, the amount of the sums of money to which the district is entitled under that agreement, during the period designated by Section 17705.5 of

the Education Code for calculation of the district matching share, for the district's cost of providing interim school facilities for grades 7 and 8.

SEC. 3. All construction under the development project referenced under the agreement described in Section 1 shall be exempt from any fee or other requirement imposed on or after January 1, 1987, for the construction or reconstruction of school facilities pursuant to Section 53080 of the Government Code or Chapter 4.7 (commencing with Section 65970) of Division 1 of Title 7 of the Government Code, or both, other than as required under that agreement, with the exception of the fee or other requirement imposed by the Chaffey Joint Union High School District of San Bernardino County which that district is customarily collecting in connection with any other development projects within the Central School District.

SEC. 4. The area of the interim school facilities made available to the Central School District under the agreement described in Section 1 shall not be included within any calculation of adequate school construction existing in that district for any purpose under Chapter 22 (commencing with Section 17700) of Part 10 of the Education Code.

SEC. 5. Due to the unique circumstances specified in Section 1 of this act concerning the Central School District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the Central School District shall be able to apply and receive funds for needed school buildings, it is necessary that this act take effect immediately.

CHAPTER 1250

An act to add Section 35722 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987]

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

SECTION 1. Section 35722 is added to the Vehicle Code, to read:

35722. Prior to the execution of freeway agreements for State Highway Route 85 in Santa Clara County, with the concurrence of each city within the highway corridor, the Board of Supervisors of

the County of Santa Clara may, after a public hearing, adopt a proposed ordinance imposing a maximum gross truck weight limit of 9,000 pounds on Route 85 from State Highway Route 280 in Cupertino south and east to State Highway Route 101 in San Jose, and submit the proposed ordinance to the Department of Transportation for approval.

Upon approval of the proposed ordinance by the department, this weight limit shall be stipulated in the applicable freeway agreements with the local entities in the Route 85 corridor.

If the proposed ordinance is approved by the department, the weight limit shall become effective upon opening of any portion of the new Route 85 freeway corridor as defined in this section, and the department shall post appropriate signs, similar to the signs on State Highway Route 580 in Oakland. Except as otherwise provided in this section, this article shall be applicable to an ordinance adopted pursuant to this section.

CHAPTER 1251

An act to add Sections 1336.2, 1336.3, and 1336.4 to the Health and Safety Code, relating to health.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987]

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

SECTION 1. Section 1336.2 is added to the Health and Safety Code, to read:

1336.2. (a) When patients are transferred due to any change in the status of the license or operation of a facility, including voluntary or involuntary termination of a facility's Medi-Cal or Medicare certification, the facility shall take reasonable steps to transfer affected patients safely and minimize possible transfer trauma by, at a minimum, doing all of the following:

(1) Medically assess, prior to transfer, the patient's condition and susceptibility to adverse health consequences, including psychosocial effects, in the event of transfer. The patient's physician and surgeon, if available, shall undertake this assessment. The assessment shall provide recommendations, including counseling and followup visits, for preventing or ameliorating potential adverse health consequences in the event of transfer.

(2) Provide, in accordance with these assessments, counseling, and other recommended services, prior to transfer, to any affected patient who may suffer adverse health consequences due to transfer.

(3) Evaluate, prior to transfer, the relocation needs of the patient and the patient's family and determine the most appropriate and available type of future care and services for the patient. The health

facility shall discuss the evaluation and medical assessment with the patient or the patient's guardian, agent, or responsible party and make the evaluation and assessment part of the medical records for transfer.

(4) Inform, at least 30 days in advance of the transfer, the patient or patient's guardian, agent, or responsible party of alternative facilities that are available and adequate to meet patient and family needs.

(5) Arrange for appropriate, future medical care and services, unless the patient or patient's guardian has otherwise made these arrangements. This requirement does not obligate a facility to pay for future care and services.

(b) The facility shall provide an appropriate team of professional staff to perform the services required in subdivision (a).

(c) The facility shall also give written notice to affected patients or their guardians, agents, or responsible parties advising them of the requirements in subdivision (a) at least 30 days in advance of transfer. If a facility is required to give written notice pursuant to Section 1336, then the notice shall advise the affected patient or the patient's guardian, agent, or responsible party of the requirements in subdivision (a). If the transfer is made pursuant to subdivision (f), the notice shall include notification to the patient that the transfer plan is available to the patient or patient's representative free of charge upon request.

(d) In the event of a temporary suspension of a facility's license pursuant to Section 1296, the 30-day notice requirement in subdivision (c) shall not apply, but the facility shall provide the relocation services required in subdivision (a) unless the state department provides the services pursuant to subdivision (e).

(e) The state department may provide, or arrange for the provision of, necessary relocation services at a facility, including medical assessments, counseling, and placement of patients, if the state department determines that these services are needed promptly to prevent adverse health consequences to patients, and the facility refuses, or does not have adequate staffing, to provide the services. In these cases, the facility shall reimburse the state department for the cost of providing the relocation services. If a facility's refusal to provide the relocation services required in subdivision (a) endangers the health and safety of patients to be transferred, then the state department may also request that the Attorney General's office or the local district attorney's office seek injunctive relief and damages in the same manner as provided for in Chapter 5 (commencing with Section 27200) of Part 2 of Division 7 of the Business and Professions Code.

(f) If 10 or more patients are likely to be transferred due to any voluntary change in the status of the license or operation of a facility, including voluntary termination of a facility's Medi-Cal or Medicare certification, the facility shall submit a proposed relocation plan for the affected patients to the state department for for comment, if any,

at least 45 days prior to the transfer of any patient. The plan shall provide for implementation of the relocation services in subdivision (a) and shall describe the availability of beds in the area for patients to be transferred, the proposed discharge process, and the staffing available to assist in the transfers. The facility shall submit its final relocation plan to the local ombudsperson, and if different from the proposed plan, to the department, at least 30 days prior to the transfer of any patient.

SEC. 2. Section 1336.3 is added to the Health and Safety Code, to read:

1336.3. (a) In the event of an emergency, such as earthquake, fire, or flood which threatens the safety or welfare of patients in a facility, the facility shall do all of the following:

(1) Notify, as soon as possible, family members, patients' guardians, the state department, and the ombudsperson for that facility of the emergency and the steps that the facility plans to take for the patient's welfare.

(2) Provide the services set forth in subdivision (a) of Section 1336.2 if further relocation of the patient is necessary.

(3) Undertake prompt medical assessment of, and provide counseling as needed to, patients whose further relocation is not necessary but who have suffered or may suffer adverse health consequences due to the emergency or sudden transfer.

(b) Each facility shall adopt a written emergency preparedness plan and shall make that plan available to the state department upon request. The plan shall comply with the requirements in this section and the state department's Contingency Plan for Licensed Facilities. The facility, as part of its emergency preparedness planning, shall seek to enter into reciprocal or other agreements with nearby facilities and hospitals to provide temporary care for patients in the event of an emergency. The facility shall report to the state department the name of any facility or hospital which fails or refuses to enter into such agreements and the stated reason for that failure or refusal.

Section 1336.2 shall not apply in the event of transfers made pursuant to an emergency preparedness plan. In any event, however, the facility shall provide the notice and services described in subdivisions (a) to (c), inclusive.

SEC. 3. Section 1336.4 is added to the Health and Safety Code, to read:

1336.4. Failure to comply with the requirements in Sections 1336 to 1336.3, inclusive, shall be subject to issuance of citations and imposition of civil penalties pursuant to Chapter 2.4 (commencing with Section 1417), and Sections 72701 and following of the California Administrative 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 1252

An act to add Part 6 (commencing with Section 44300) to Division 26 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987]

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

SECTION 1. Part 6 (commencing with Section 44300) is added to Division 26 of the Health and Safety Code, to read:

PART 6. AIR TOXICS "HOT SPOTS" INFORMATION AND ASSESSMENT

CHAPTER 1. LEGISLATIVE FINDINGS AND DEFINITIONS

44300. This part shall be known and may be cited as the Air Toxics "Hot Spots" Information and Assessment Act of 1987.

44301. The Legislature finds and declares all of the following:

(a) In the wake of recent publicity surrounding planned and unplanned releases of toxic chemicals into the atmosphere, the public has become increasingly concerned about toxics in the air.

(b) The Congressional Research Service of the Library of Congress has concluded that 75 percent of the United States population lives in proximity to at least one facility that manufactures chemicals. An incomplete 1985 survey of large chemical companies conducted by the Congressional Research Service documented that nearly every chemical plant studied routinely releases into the surrounding air significant levels of substances proven to be or potentially hazardous to public health.

(c) Generalized emissions inventories compiled by air pollution control districts and air quality management districts in California confirm the findings of the Congressional Research Service survey as well as reveal that many other facilities and businesses which do not actually manufacture chemicals do use hazardous substances in sufficient quantities to expose, or in a manner that exposes, surrounding populations to toxic air releases.

(d) These releases may create localized concentrations or air toxics "hot spots" where emissions from specific sources may expose individuals and population groups to elevated risks of adverse health effects, including, but not limited to, cancer and contribute to the cumulative health risks of emissions from other sources in the area. In some cases where large populations may not be significantly

affected by adverse health risks, individuals may be exposed to significant risks.

(e) Little data is currently available to accurately assess the amounts, types, and health impacts of routine toxic chemical releases into the air. As a result, there exists significant uncertainty about the amounts of potentially hazardous air pollutants which are released, the location of those releases, and the concentrations to which the public is exposed.

(f) The State of California has begun to implement a long-term program to identify, assess, and control ambient levels of hazardous air pollutants, but additional legislation is needed to provide for the collection and evaluation of information concerning the amounts, exposures, and short- and long-term health effects of hazardous substances regularly released to the surrounding atmosphere from specific sources of hazardous releases.

(g) In order to more effectively implement control strategies for those materials posing an unacceptable risk to the public health, additional information on the sources of potentially hazardous air pollutants is necessary.

(h) It is in the public interest to ascertain and measure the amounts and types of hazardous releases and potentially hazardous releases from specific sources that may be exposing people to those releases, and to assess the health risks to those who are exposed.

44302. The definitions set forth in this chapter govern the construction of this part.

44303. "Air release" or "release" means any activity that may cause the issuance of air contaminants, including the actual or potential spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of a substance into the ambient air and that results from the routine operation of a facility or that is predictable, including, but not limited to, continuous and intermittent releases and predictable process upsets or leaks.

44304. "Facility" means every structure, appurtenance, installation, and improvement on land which is associated with a source of air releases or potential air releases of a hazardous material.

44306. "Health risk assessment" means a detailed comprehensive analysis prepared pursuant to Section 44361 to evaluate and predict the dispersion of hazardous substances in the environment and the potential for exposure of human populations and to assess and quantify both the individual and populationwide health risks associated with those levels of exposure.

44307. "Operator" means the person who owns or operates a facility or part of a facility.

44308. "Plan" means the emissions inventory plan which meets the conditions specified in Section 44342.

44309. "Report" means the emissions inventory report specified in Section 44341.

CHAPTER 2. FACILITIES SUBJECT TO THIS PART

44320. This part applies to the following:

(a) Any facility which manufactures, formulates, uses, or releases any of the substances listed pursuant to Section 44321 or any other substance which reacts to form a substance listed in Section 44321 and which releases or has the potential to release total organic gases, particulates, or oxides of nitrogen or sulfur in the amounts specified in Section 44322.

(b) Except as provided in Section 44323, any facility which is listed in any existing toxics use or toxics air emission survey, inventory, or report released or compiled by a district.

44321. For the purposes of Section 44320, the state board shall compile and maintain a list of substances that contains, but is not limited to, all of the following:

(a) Substances identified by reference in paragraph (1) of subdivision (b) of Section 6382 of the Labor Code and substances placed on the list prepared by the National Toxicology Program issued by the United States Secretary of Health and Human Services pursuant to paragraph (4) of Section 262 of Public Law 95-622 of 1978. For the purposes of this subdivision, the state board may remove from the list any substance which meets both of the following criteria:

(1) No evidence exists that it has been detected in air.

(2) The substance is not manufactured or used in California, or, if manufactured or used in California, because of the physical or chemical characteristics of the substance or the manner in which it is manufactured or used, there is no possibility that it will become airborne.

(b) Carcinogens and reproductive toxins referenced in or compiled pursuant to Section 25249.8, except those which meet both of the criteria identified in subdivision (a).

(c) The candidate list of potential toxic air contaminants and the list of designated toxic air contaminants prepared by the state board pursuant to Article 2 (commencing with Section 39660) of Chapter 3.5 of Part 2, including, but not limited to, all substances currently under review and scheduled or nominated for review and substances identified and listed for which health effects information is limited.

(d) Substances for which an information or hazard alert has been issued by the repository of current data established pursuant to Section 147.2 of the Labor Code.

(e) Substances reviewed, under review, or scheduled for review as air toxics or potential air toxics by the Office of Air Quality Planning and Standards of the Environmental Protection Agency, including substances evaluated in all of the following categories or their equivalent: preliminary health and source screening, detailed assessment, intent to list, decision not to regulate, listed, standard proposed, and standard promulgated.

(f) Any additional substances recognized by the state board as

presenting a chronic or acute threat to public health when present in the ambient air, including, but not limited to, any neurotoxins or chronic respiratory toxins not included within subdivision (a), (b), (c), (d), or (e).

44322. This part applies to facilities specified in Section 44320 in accordance with the following schedule:

(a) For those facilities that release, or have the potential to release, 25 tons per year or greater of total organic gases, particulates, or oxides of nitrogen or sulfur, this part becomes effective on July 1, 1988.

(b) For those facilities that release, or have the potential to release, more than 10 but less than 25 tons per year of total organic gases, particulates, or oxides of nitrogen or sulfur, this part becomes effective July 1, 1989.

(c) For those facilities that release, or have the potential to release, less than 10 tons per year of total organic gases, particulates, or oxides of nitrogen or sulfur, the state board shall, on or before July 1, 1990, prepare and submit a report to the Legislature identifying the classes of those facilities to be included in this part and specifying a timetable for their inclusion.

44323. A district may prepare an industrywide emissions inventory and health risk assessment for facilities specified in subdivisions (a) and (b) of Section 44322, and shall prepare an industrywide emissions inventory for the facilities specified in subdivision (c) of Section 44322, in compliance with this part for any class of facilities that the district finds and determines meets all of the following conditions:

(a) All facilities in the class fall within one four-digit Standard Industrial Classification Code.

(b) Individual compliance with this part would impose severe economic hardships on the majority of the facilities within the class.

(c) The majority of the class is composed of small businesses.

(d) Releases from individual facilities in the class consist primarily of a single hazardous material for which the releases from each facility can easily and generically be characterized and calculated.

44324. This part does not apply to any facility where economic poisons are employed in their pesticidal use, unless that facility was subject to district permit requirements on or before August 1, 1987. As used in this section, "pesticidal use" does not include the manufacture or formulation of pesticides.

44325. Any solid waste disposal facility in compliance with Section 41805.5 is in compliance with the emissions inventory requirements of this part.

CHAPTER 3. AIR TOXICS EMISSION INVENTORIES

44340. (a) The operator of each facility subject to this part shall prepare and submit to the district a proposed comprehensive emissions inventory plan in accordance with the criteria and

guidelines adopted by the state board pursuant to Section 44342.

(b) The proposed plan shall be submitted to the district on or before August 1, 1989, except that, for any facility to which subdivision (b) of Section 44322 applies, the proposed plan shall be submited to the district on or before August 1, 1990. The district shall approve, modify, and approve as modified, or return for revision and resubmission, the plan within 120 days of receipt.

(c) The district shall not approve a plan unless all of the following conditions are met:

(1) The plan meets the requirements established by the state board pursuant to Section 44342.

(2) The plan is designed to produce, from the list compiled and maintained pursuant to Section 44321, a comprehensive characterization of the full range of hazardous materials that are released, or that may be released, to the surrounding air from the facility. Air release data shall be collected at, or calculated for, the primary locations of actual and potential release for each hazardous material. Data shall be collected or calculated for all continuous, intermittent, and predictable air releases.

(3) The measurement technologies and estimation methods proposed provide state-of-the-art effectiveness and are sufficient to produce a true representation of the types and quantities of air releases from the facility.

(4) Source testing or other measurement techniques are employed wherever necessary to verify emission estimates, as determined by the state board and to the extent technologically feasible. All testing devices shall be appropriately located, as determined by the state board.

(5) Data are collected or calculated for the relevant exposure rate or rates of each hazardous material according to its characteristic toxicity and for the emission rate necessary to ensure a characterization of risk associated with exposure to releases of the hazardous material that meets the requirements of Section 44361. The source of all emissions shall be displayed or described.

44341. Within 180 days after approval of a plan by the district, the operator shall implement the plan and prepare and submit a report to the district in accordance with the plan. The district shall transmit all monitoring data contained in the approved report to the state board.

44342. The state board shall, on or before May 1, 1989, in consultation with the districts, develop criteria and guidelines for site-specific air toxics emissions inventory plans which shall be designed to comply with the conditions specified in Section 44340 and which shall include at least all of the following:

(a) For each class of facility, a designation of the hazardous materials for which emissions are to be quantified and an identification of the likely source types within that class of facility. The hazardous materials for quantification shall be chosen from among, and may include all or part of, the list specified in Section

44321.

(b) Requirements for a facility diagram identifying each actual or potential discrete emission point and the general locations where fugitive emissions may occur. The facility diagram shall include any nonpermitted and nonprocess sources of emissions and shall provide the necessary data to identify emission characteristics. An existing facility diagram which meets the requirements of this section may be submitted.

(c) Requirements for source testing and measurement. The guidelines may specify appropriate uses of estimation techniques including, but not limited to, emissions factors, modeling, mass balance analysis, and projections, except that source testing shall be required wherever necessary to verify emission estimates to the extent technologically feasible. The guidelines shall specify conditions and locations where source testing, fence-line monitoring, or other measurement techniques are to be required and the frequency of that testing and measurement.

(d) Appropriate testing methods, equipment, and procedures, including quality assurance criteria.

(e) Specifications for acceptable emissions factors, including, but not limited to, those which are acceptable for substantially similar facilities or equipment, and specification of procedures for other estimation techniques and for the appropriate use of available data.

(f) Specification of the reporting period required for each hazardous material for which emissions will be inventoried.

(g) Specifications for the collection of useful data to identify toxic air contaminants pursuant to Article 2 (commencing with Section 39660) of Chapter 3.5 of Part 2.

(h) Standardized format for preparation of reports and presentation of data.

(i) A program to coordinate and eliminate any possible overlap between the requirements of this chapter and the requirements of Section 313 of the Superfund Amendment and Reauthorization Act of 1986 (Public Law 99-499).

The state board shall design the guidelines and criteria to ensure that, in collecting data to be used for emissions inventories, actual measurement is utilized whenever necessary to verify the accuracy of emission estimates, to the extent technologically feasible.

44343. The district shall review the reports submitted pursuant to Section 44341 and shall, within 90 days, review each report, obtain corrections and clarifications of the data, and notify the State Department of Health Services, the Department of Industrial Relations, and the city or county health department of its findings and determinations as a result of its review of the report.

44344. Emissions inventories developed pursuant to this chapter shall be updated biennially, in accordance with procedures established by the state board. These biennial updates shall take into consideration improvements in measurement techniques and advancing knowledge concerning the types and toxicity of hazardous

materials released or potentially released.

44345. (a) On or before July 1, 1989, the state board shall develop a program to compile and make available to other state and local public agencies and the public all data collected pursuant to this chapter.

(b) In addition, the state board, on or before March 1, 1990, shall compile, by district, emissions inventory data for mobile sources and area sources not subject to district permit requirements, and data on natural source emissions, and shall incorporate these data into data compiled and released pursuant to this chapter.

44346. (a) If an operator believes that any information required in the facility diagram specified pursuant to subdivision (b) of Section 44342 involves the release of a trade secret, the operator shall nevertheless make the disclosure to the district, and shall notify the district in writing of that belief in the report.

(b) Subject to this section, the district shall protect from disclosure any trade secret designated as such by the operator, if that trade secret is not a public record.

(c) Upon receipt of a request for the release of information to the public which includes information which the operator has notified the district is a trade secret and which is not a public record, the following procedure applies:

(1) The district shall notify the operator of the request in writing by certified mail, return receipt requested.

(2) The district shall release the information to the public, but not earlier than 30 days after the date of mailing the notice of the request for information, unless, prior to the expiration of the 30-day period, the operator obtains an action in an appropriate court for a declaratory judgment that the information is subject to protection under this section or for a preliminary injunction prohibiting disclosure of the information to the public and promptly notifies the district of that action.

(d) This section does not permit an operator to refuse to disclose the information required pursuant to this part to the district.

(e) Any information determined by a court to be a trade secret, and not a public record pursuant to this section, shall not be disclosed to anyone except an officer or employee of the district, the state, or the United States, in connection with the official duties of that officer or employee under any law for the protection of health, or to contractors with the district or the state and its employees if, in the opinion of the district or the state, disclosure is necessary and required for the satisfactory performance of a contract, for performance of work, or to protect the health and safety of the employees of the contractor.

(f) Any officer or employee of the district or former officer or employee who, by virtue of that employment or official position, has possession of, or has access to, any trade secret subject to this section, and who, knowing that disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses

the information in any manner to any person not entitled to receive it is guilty of a misdemeanor. Any contractor of the district and any employee of the contractor, who has been furnished information as authorized by this section, shall be considered an employee of the district for purposes of this section.

(g) Information certified by appropriate officials of the United States as necessary to be kept secret for national defense purposes shall be accorded the full protections against disclosure as specified by those officials or in accordance with the laws of the United States

(h) As used in this section, "trade secret" and "public record" have the meanings and protections given to them by Section 6254.7 of the Government Code and Section 1060 of the Evidence Code. All information collected pursuant to this chapter, except for data used to calculate emissions data required in the facility diagram, shall be considered "air pollution emission data," for the purposes of this section.

CHAPTER 4. RISK ASSESSMENT

44360. (a) Within 90 days of completion of the review of all emissions inventory data for facilities specified in subdivision (a) of Section 44322, but not later than December 1, 1990, the district shall, based on examination of the emissions inventory data and in consultation with the state board and the State Department of Health Services, prioritize and then categorize those facilities for the purposes of health risk assessment. The district shall designate high, intermediate, and low priority categories and shall include each facility within the appropriate category based on its individual priority. In establishing priorities pursuant to this section, the district shall consider the potency, toxicity, quantity, and volume of hazardous materials released from the facility, the proximity of the facility to potential receptors, including, but not limited to, hospitals, schools, daycare centers, worksites, and residences, and any other factors that the district finds and determines may indicate that the facility may pose a significant risk to receptors. The district shall hold a public hearing prior to the final establishment of priorities and categories pursuant to this section.

(b) Within 150 days of the designation of priorities and categories pursuant to subdivision (a), the operator of every facility that has been included within the highest priority category shall prepare and submit to the district a health risk assessment pursuant to Section 44361. The district may, at its discretion, grant a 30-day extension for submittal of the health risk assessment.

(c) Upon submission of emissions inventory data for facilities specified in subdivisions (b) and (c) of Section 44322, the district shall designate facilities for inclusion within the highest priority category, as appropriate, and any facility so designated shall be subject to subdivision (b). In addition, the district may require the operator of any facility to prepare and submit health risk

assessments, in accordance with the priorities developed pursuant to subdivision (a).

(d) The district shall, except where site specific factors may affect the results, allow the use of a single health risk assessment for two or more substantially identical facilities operated by the same person.

44361. (a) Each health risk assessment shall be submitted to the district. The district shall make the health risk assessment available for public review, upon request. After preliminary review of the emissions impact and modeling data, the district shall submit the health risk assessment to the State Department of Health Services for review and, within 180 days of receiving the health risk assessment, the State Department of Health Services shall submit to the district its comments on the data and findings relating to health effects. The district shall consult with the state board as necessary to adequately evaluate the emissions impact and modeling data contained within the risk assessment.

(b) For the purposes of complying with this section, the State Department of Health Services may select a qualified independent contractor to review the data and findings relating to health effects. The State Department of Health Services shall not select an independent contractor to review a specific health risk assessment who may have a conflict of interest with regard to the review of that health risk assessment. Any review by an independent contractor shall comply with the following requirements:

(1) Be performed in a manner consistent with guidelines provided by the State Department of Health Services.

(2) Be reviewed by the State Department of Health Services for accuracy and completeness.

(3) Be submitted by the State Department of Health Services to the district in accordance with this section.

(c) The district shall reimburse the State Department of Health Services or the qualified independent contractor designated by the State Department of Health Services pursuant to subdivision (b), within 45 days of its request, for its actual costs incurred in reviewing a health risk assessment pursuant to this section.

(d) If a district requests the State Department of Health Services to consult with the district concerning any requirement of this part, the district shall reimburse the State Department of Health Services, within 45 days of its request, for the costs incurred in the consultation.

(e) Upon designation of the high priority facilities, as specified in subdivision (a) of Section 44360, the State Department of Health Services shall evaluate the staffing requirements of this section and may submit recommendations to the Legislature, as appropriate, concerning the maximum number of health risk assessments to be reviewed each year pursuant to this section.

44362. (a) Taking the comments of the State Department of Health Services into account, the district shall approve or return for revision and resubmission and then approve, the health risk

assessment within 180 days of receipt. If the health risk assessment has not been revised and resubmitted within 60 days of the district's request of the operator to do so, the district may modify the health risk assessment and approve it as modified.

(b) Upon approval of the health risk assessment, the operator of the facility shall provide notice to all exposed persons regarding the results of the health risk assessment prepared pursuant to Section 44361 if, in the judgment of the district, the health risk assessment indicates there is a significant health risk associated with emissions from the facility. If notice is required under this subdivision, the notice shall include only information concerning significant health risks attributable to the specific facility for which the notice is required. Any notice shall be made in accordance with procedures specified by the district.

44363. (a) Commencing July 1, 1991, each district shall prepare and publish an annual report which does all of the following:

(1) Describes the priorities and categories designated pursuant to Section 44360 and summarizes the results and progress of the health risk assessment program undertaken pursuant to this part.

(2) Ranks and identifies facilities according to the degree of cancer risk posed both to individuals and to the exposed population.

(3) Identifies facilities which expose individuals or populations to any noncancer health risks.

(4) Describes the status of the development of control measures to reduce emissions of toxic air contaminants, if any.

(b) The district shall disseminate the annual report to county boards of supervisors, city councils, and local health officers and the district board shall hold one or more public hearings to present the report and discuss its content and significance.

44364. The state board shall utilize the reports and assessments developed pursuant to this part for the purposes of identifying, establishing priorities for, and controlling toxic air contaminants pursuant to Chapter 3.5 (commencing with Section 39650) of Part 2.

44365. (a) If the state board finds and determines that a district's actions pursuant to this part do not meet the requirements of this part, the state board may exercise the authority of the district pursuant to this part to approve emissions inventory plans and require the preparation of health risk assessments.

(b) This part does not prevent any district from establishing more stringent criteria and requirements than are specified in this part for approval of emissions inventories and requiring the preparation and submission of health risk assessments. Nothing in this part limits the authority of a district under any other provision of law to assess and regulate releases of hazardous substances.

44366. (a) In order to verify the accuracy of any information submitted by facilities pursuant to this part, a district or the state board may proceed in accordance with Section 41510.

CHAPTER 5. FEES AND REGULATIONS

44380. (a) On or before August 1, 1988, the state board shall adopt a fee schedule, as specified in Section 44383, which assesses a fee upon the operator of every facility subject to this part. The fees shall be based on the reasonable anticipated cost which will be incurred by the state board, the districts, and the department to implement and administer this part, taking into account variations in costs incurred by individual district, and shall, in addition, provide for the recovery in the 1987–88 fiscal year of all starting costs incurred under this part.

(b) Commencing February 1, 1988, the state board shall establish, with the participation of the districts on a voluntary basis, a technical review group for the purpose of developing the fee schedule specified in subdivision (a). The fee schedule shall not be adopted or implemented prior to the establishment of the technical review group.

(c) The district shall notify 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 district shall require the person to pay an additional administrative civil penalty. The district shall fix the penalty at not more than 100 percent of the assessed fee, but in an amount sufficient in its determination, to pay the district's additional expenses incurred by the person's noncompliance.

(d) Each district shall collect the fees pursuant to the schedule adopted under subdivision (a). After deducting the costs to the district to implement and administer this part, the district shall transmit the remainder to the Controller for deposit in the Air Toxics Inventory and Assessment Account, which is hereby created in the General Fund. The money in the account is available, upon appropriation by the Legislature, to the state board and the department for the purposes of administering this part.

44381. (a) Any person who fails to submit any information, reports, or statements required by this part, or who fails to comply with this part or with any permit, rule, regulation, or requirement issued or adopted pursuant to this part, is subject to a civil penalty of not less than five hundred dollars ($500) or more than ten thousand dollars ($10,000) for each day that the information, report, or statement is not submitted, or that the violation continues.

(b) Any person who knowingly submits any false statement or representation in any application, report, statement, or other document filed, maintained, or used for the purposes of compliance with this part is subject to a civil penalty of not less than one thousand dollars ($1,000) or more than twenty-five thousand dollars ($25,000) per day for each day that the information remains uncorrected.

44382. Every district shall, by regulation, adopt the requirements of this part as a condition of every permit issued pursuant to Chapter 4 (commencing with Section 42300) of Part 4 for all new and modified facilities.

44383. The state board shall adopt rules or regulations to implement Section 44380 as emergency regulations in accordance with Section 11346.1 of the Government Code.

44384. Except for Section 44380 and this section, all provisions of this part shall become operative on July 1, 1988.

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.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1253

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

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987.]

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

SECTION 1. The Stockton Unified School District desires to use portable buildings that may not conform to the so-called Field Act, for classroom purposes. The portable buildings were relocated from one school to another school without the State Architect inspecting whether these buildings satisfied the structural standards of the Field Act. It is necessary that these portable buildings be used without an inspection since the cost to inspect the portable buildings at this time would be prohibitive to the district.

SEC. 2. Notwithstanding Section 39227 of the Education Code, the governing board of the Stockton Unified School District may use the existing portable buildings described in Section 1 for classroom purposes from the effective date of this act until January 1, 1990, upon which date this act is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1990, deletes or extends the date on which the act is repealed. During the period of use authorized by this section, the structure shall not be subject to Article 3 (commencing with Section 39140) or Article 6 (commencing with Section 39210) of Chapter 2 of Part 23 of the Education Code.

SEC. 3. Due to the unique circumstances specified in Section 1 of this act concerning the Stockton Unified School District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 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 permit the Stockton Unified School District to use portable buildings that may not satisfy Field Act standards, so that its classes may be operated without interruption or delay, it is necessary that this act take effect immediately.

CHAPTER 1254

An act to amend Section 49410.7 of the Education Code, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 27, 1987]

I am deletıng the appropriations contained ın Section 3(a) and (b) of Assembly Bill 2509

This bill would appropriate up to $100,000 from the Asbestos Abatement Fund to the Department of Industrial Relations for reinspection of school facilities. It would also make changes in eligibility requirements for schools to qualify for financial aid from the State Asbestos Abatement Fund

Since the Federal Environmental Protection Agency is conductıng the reinspectiohn of schools for presence of asbestos, the appropriation contained ın this bill is not necessary.

With this deletion, I approve Assembly Bill No. 2509.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 49410.7 of the Education Code is amended 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 bulk samples and air monitoring showing an airborne concentration of asbestos in the school building in excess of the standard 0.01 fibers/cc 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. For purposes of reconstruction and rehabilitation projects approved pursuant to Chapter 22 (commencing with Section 17700) of Part 10 of the Education Code, for which asbestos abatement related work

commenced on or after October 2, 1985, and for purposes of abating asbestos contained in pipe and block insulation, air monitoring shall not be required to determine the need for abatement of friable asbestos or potentially friable asbestos.

(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 or materials to be abated during rehabilitation or reconstruction projects as specified in subdivision (a)) 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 1 micron 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.

"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 offices of education may apply for reimbursement from the Asbestos Abatement Fund for the costs of air monitoring completed pursuant to this section.

SEC. 2. Notwithstanding any other provisions of law to the contrary, the Department of Industrial Relations may enter into sole-source, noncompetitive contracts with individuals or firms that are certified asbestos inspectors for the purpose of reinspecting

schools pursuant to this act.

SEC. 3. (a) The sum of seventy-five thousand dollars ($75,000) is hereby appropriated from the Asbestos Abatement Fund to the Department of Industrial Relations to pay for the reinspection of school districts which were inspected by the State Department of Education in 1986. Furthermore, inspectors from, or under contract with, the California Occupational Safety and Health Division of the Department of Industrial Relations, experienced with the Asbestos-In-Schools Program, shall conduct the inspections and shall consult with officials of the United States Environmental Protection Agency, Region IX, with regard to procedures and the location of schools to be inspected. The inspectors shall only inspect those schools designated by the Environmental Protection Agency which were involved in the 1986 inspection program. If any portion of the appropriated funds remain at the conclusion of the reinspection program, they shall be returned to the Asbestos Abatement Fund.

(b) The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the Asbestos Abatement Fund to the Department of Industrial Relations to pay for the reinspection of school districts which were inspected by the State Department of Education in 1986. Funds appropriated pursuant to this subdivision shall be available for expenditure only upon the written approval of the Director of Finance based upon a determination that funds appropriated pursuant to subdivision (a) are inadequate for completion of the reinspection pursuant to this act.

(c) Funds appropriated by this section shall not be expended if federal funds for this program are received prior to that expenditure, in which case the federal funds shall be expended in lieu of these funds. If funds appropriated by this section are expended, these funds shall be replaced with federal funds to the extent that federal funds are received for these purposes.

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

The State Department of Education entered into a cooperative agreement with the United States Environmental Protection Agency, Region IX, to inspect California school districts for compliance with the Asbestos-In-Schools Program (Public Law 94–469; see, 40 C.F.R. Pt. 763). The compliance inspections, conducted in 1984 and 1985, revealed that over 70 percent of the school districts had not complied properly with the Environmental Protection Agency regulation. The State Department of Education's 1986 inspection program revealed that only 12 percent of the districts inspected had not complied. Subsequently, the Environmental Protection Agency discovered a pattern of inconsistencies with the state's 1986 inspection, thus subjecting the 1986 findings to doubt. Therefore, an urgency exists to immediately reinspect those school districts which may have been improperly inspected in 1986.

CHAPTER 1255

An act to add and repeal Title 9 (commencing with Section 14090) of Part 4 of the Penal Code, relating to correctional facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987]

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

SECTION 1. Title 9 (commencing with Section 14090) is added to Part 4 of the Penal Code, to read:

TITLE 9. BLUE RIBBON COMMISSION ON INMATE POPULATION MANAGEMENT

CHAPTER 1. FINDINGS

14090. The Legislature finds and declares all of the following:

(a) In recent years, the number of convicted criminals serving time in California state prisons has dramatically increased. Since 1982, the state prison population has nearly doubled. This is the direct result of tougher determinant sentencing laws, and it reflects the will of the public that criminals should serve time in prison.

In 1983, the State of California embarked on its first major prison construction and expansion program in nearly 20 years. As a result of these efforts, new prisons have been opened and a variety of temporary overcrowding measures have been taken. Still, the growth in prison population continues to outpace the prison expansion program. This is placing a growing burden on California's prison system and on the financial resources of the state.

Given these factors, it is necessary to reexamine traditional correctional housing approaches and to study other possible methods of housing the state's prison population. Those methods must be consistent with the need to protect the public, control crime, and facilitate the punishment, deterrence, incapacitation, and reintegration of criminals into society.

(b) The California Department of Corrections forecasts that the inmate population in state prisons will increase from its present level of 63,000 to almost 100,000 in the next three to five years. The current prison construction program will increase California's prison population to approximately 55,000 beds, but this will not be sufficient to meet the state's growing prison needs.

(c) In the past 10 years, the Department of Corrections' operating budget has doubled and by 1991, the state will spend about one-tenth of its General Fund budget to maintain its correctional system if current correctional policies continue. Current General Fund

appropriations for operating the state's correctional system, now at one billion dollars, are projected to exceed two billion dollars by 1991.

(d) The problem of correctional facility overcrowding is equally critical in the Department of Youth Authority, where almost 8,500 wards are in a system that is designed for 5,840 wards. The Youth Authority population is projected to increase to 9,500 wards within the next five years. The current eighty-five million dollar Youth Authority building program will increase the system's capacity to 6,950. However, this is not enough to deal with the state's growing institution population of youthful offenders. Projections indicated that another three hundred million dollars is needed to build 2,400 more Youth Authority bed spaces by 1991.

(e) The high cost of building, maintaining, and operating prisons and youth correctional facilities, the high rates of parolees returning to custody, and the increased inmate violence require the examination of new methods, approaches, and considerations commensurate with the public's desire to be safe from criminal activity.

14091. (a) It is necessary to review California's adult and youth correctional facilities systems to examine whether there are viable alternatives and solutions to the problems of overcrowding and rising costs which exist. This title establishes a Commission on Inmate Population Management for the comprehensive review of this state's system for dealing with state prisoner and parolee populations.

(b) It is the intent of the Legislature that public safety shall be the overriding concern in examining methods of improving the prison system, reducing costs, heading off runaway inmate population levels, and exploring punishment options. These options, alternatives, and proposals should be recommended by the commission only if it is convinced that each such proposal will not result in significant lessening of public safety, increase in crime rates, or added violence within the prison system or on the outside.

(c) The people of the State of California have shown by their repeated approval of bond measures to build new jails and prisons, through opinion polls, and other indicators that they wish offenders punished and violent offenders confined in prison for lengthy periods. The commission and its study must take this into account in its deliberations, findings, study, and recommendations.

However, new methods must be explored and new options examined commensurate with this goal if the costs and impacts of California's prison system are to remain under control.

(d) As in other areas of public policy, advancements are being made in corrections systems throughout the country and in other nations, and it is imperative that California examine that achievements and consider implementing them where they seem feasible.

CHAPTER 2. DUTIES AND FUNCTIONS

14100. There is established the Blue Ribbon Commission on Inmate Population Management.

14101. The commission shall have 25 voting members as follows:

(a) The Governor shall appoint nine members, one of whom shall be designated by the Governor as chairperson.

(1) One of the Governor's appointees shall be a correctional officer with a rank not above lieutenant.

(2) One of the Governor's appointees shall be a district attorney.

(3) One of the Governor's appointees shall be a sheriff.

(b) The Senate Rules Committee shall appoint four members, one of whom shall have research credentials in the field of corrections, law enforcement, sociology, and related areas.

(c) The Speaker of the Assembly shall appoint four members, one of whom shall be an expert in mental health.

(d) The Attorney General shall serve as a member of the commission.

(e) The Secretary of the Youth and Adult Correctional Agency, the Director of the California Department of Corrections, the Director of the California Youth Authority, the Chairpersons of the Board of Prison Terms, and the Youthful Offender Parole Board; shall be members of the commission.

(f) The California Judges Association shall select one superior court judge to serve as a member of the commission.

(g) The Chairperson of the Board of the Presley Correctional Research and Training Institute shall serve as a member of the commission.

14102. Vacancies that may occur shall be filled by the original respective appointing authority.

14103. Members shall serve without added compensation from the commission. Members who are current state employees, whether civil service or exempt appointees, shall be reimbursed for per diem and travel expenses by their department or agency of employment. All other members shall be reimbursed for per diem and travel expenses by the Department of Corrections. Reimbursement of expenses for all commission members shall be made for expenses incurred in performance of their functions, including time spent conducting commission affairs at the direction and approval of the chairperson.

14104. The commission shall meet regularly at the call of the chairperson, with meetings in various parts of the state.

14105. The executive director shall be appointed by the commission chairperson from employees of one of the departments of the Youth and Adult Correctional Agency. Each department shall provide professional or clerical staff necessary to carry out the work of the commission. The directors of the respective agencies in consultation with the chairperson of the commission may designate temporary staff until the executive director and permanent staff

have been selected. Both the executive director and staff shall be compensated by their employer agency at their normal rate of compensation.

14105.5. All agencies of state government are directed to cooperate and assist the commission and its staff, including reasonable assignment of temporary staff support where needed.

14106. The purposes, aims, goals, and operating procedures of the commission shall include, but not be limited to, the following:

(a) Determination of the best available state prison and youth correctional facilities population projections for the next five years and longer, if feasible, and the impact of the populations in terms of construction and operational costs, and their impacts on the state budget.

(b) Determination of desirable alternatives or punishment options, if any, commensurate with public safety that could improve this system while reducing recidivism and prison violence.

(c) The commission shall study the present utilization of community correctional facilities and, if appropriate, make recommendations regarding utilization of those facilities. The commission shall study options for community-based treatment programs and community correctional facilities, for persons under the jurisdiction of the Department of Youth Authority or the Department of Corrections who violate the terms and conditions of parole. Public safety shall be the primary consideration in all conclusions and recommendations.

(d) The commission shall study relevant methods utilized in other jurisdictions toward reducing the problems which are within its mandate.

(e) The commission shall perform other duties as may be requested by the Governor in accord with the commission's mandates.

14107. (a) The commission shall make an initial written report to the Governor, the Senate Judiciary Committee, the Assembly Committee on Public Safety, the Joint Legislative Committee on Prison Construction and Operation, the Senate Appropriations Committee, the Assembly Ways and Means Committee, and the Legislature of its activities, findings, and recommendations no later than one year after its first meeting. The commission shall make additional presentations or reports that it deems warranted.

(b) The commission shall also prepare a final written report of its findings to the Governor and to the Legislature including recommended legislation or action by the Governor's office which will promote the purpose of the commission.

14107.5. This title shall become inoperative two years after it becomes effective, 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 establishment of this commission is not intended to

obviate the need for additional funding for prison or youth correctional facilities construction to alleviate prison overcrowding.

SEC. 3. The sum of fifty thousand ($50,000) is hereby appropriated from the General Fund to the commission for consulting contracts and services in direct support of the commission's research and deliberations.

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 current challenge of crowding in corrections facilities requires prompt and effective action to review options for dealing with criminal offenders.

CHAPTER 1256

An act to add an article heading immediately preceding Section 25940 of, and to add Article 2 (commencing with Section 25948) to Chapter 10.8 of Division 20 of, the Health and Safety Code, relating to smoking.

[Approved by Governor September 27, 1987 Filed with Secretary of State September 28, 1987.]

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

SECTION 1. An article heading immediately preceding Section 25940 is added to Chapter 10.8 of Division 20 of the Health and Safety Code, to read:

Article 1. California Indoor Clean Air Act of 1976

SEC. 2. Article 2 (commencing with Section 25948) is added to Chapter 10.8 of Division 20 of the Health and Safety Code, to read:

Article 2. Smoking on Private and Public Transportation

25948. (a) The Legislature hereby finds and declares that the United States Surgeon General's 1986 Report on the Health Consequences of Involuntary Smoking conclude all of the following:

(1) Involuntary smoking is a cause of disease, including lung cancer, in healthy nonsmokers.

(2) The children of parents who smoke compared with the children of nonsmoking parents have an increased frequency of respiratory infections, increased respiratory symptoms, and slightly smaller rates of increase in lung function as the lungs mature.

(3) The simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of

nonsmokers to environmental tobacco smoke.

(b) The Legislature further finds and declares the following:

(1) Nonsmokers have no adequate means to protect themselves from the damage inflicted upon them when they involuntarily inhale tobacco smoke.

(2) Regulation of smoking in public places is necessary to protect the health, safety, welfare, comfort, and environment of nonsmokers.

(c) It is, therefore, the intent of the Legislature, in enacting this article, to eliminate smoking on public transportation vehicles.

25949. It is unlawful for any person to smoke tobacco or any other plant product in any vehicle of a passenger stage corporation, the National Railroad Passenger Corporation (Amtrak) except to the extent permitted by federal law, in any aircraft except to the extent permitted by federal law, on a public transportation system, as defined by Section 99211 of the Public Utilities Code, or in any vehicle of an entity receiving any transit assistance from the state.

25949.2. A notice prohibiting smoking, displayed as a symbol and in English, shall be posted in each vehicle or aircraft subject to this article.

25949.4. (a) Every person and public agency providing transportation services for compensation, including, but not limited to, the National Railroad Passenger Corporation (Amtrak) to the extent permitted by federal law, passenger stage corporations, and local agencies which own or operate airports, shall designate and post, by signs of sufficient number and posted in locations which may be readily seen by persons within the area, a contiguous area of not less than 75 percent of any area made available by the person or public agency as a waiting room for these passengers where the smoking of tobacco is prohibited. Not more than 25 percent of any given area may be set aside for smokers.

(b) Every person or public agency subject to subdivision (a) shall also post, by sign of sufficient number and posted in locations as to be readily seen by persons within the area of any building where tickets, tokens, or other evidences that a fare has been paid for transportation services which are provided by the person or public agency, a notice that the smoking of tobacco by persons waiting in line to purchase the tickets, tokens, or other evidences that a fare has been paid is prohibited.

(c) It is unlawful for any person to smoke in an area posted pursuant to this section.

25949.6. This article does not preempt any local ordinance on the same subject where a local ordinance is more restrictive to the benefit of the nonsmoker.

25949.8. Any violation of this article is an infraction punishable by a fine not exceeding one hundred dollars ($100) for a first violation, by a fine not exceeding two hundred dollars ($200) for a second violation within one year, or by a fine not exceeding five hundred dollars ($500) for a third and for each subsequent violation within one year.

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 1257

An act to add Section 7252.9 to, and to add Chapter 2 (commencing with Section 7285) to Part 1.7 of Division 2 of, the Revenue and Taxation Code, relating to taxation.

[Became law without Governor's signature. Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 7252.9 is added to the Revenue and Taxation Code, to read:

7252.9. "District," as used in this part, also means any county imposing a tax pursuant to Section 7285.

SEC. 2. Chapter 2 (commencing with Section 7285) is added to Part 1.7 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 2. RURAL COUNTIES TRANSACTIONS AND USE TAX

7285. The board of supervisors of any county with a population of 350,000 or less on January 1, 1987, may levy a transactions and use tax at a rate of 0.5 percent, if the ordinance or resolution proposing that tax is approved by a two-thirds vote of all members of the board of supervisors and the tax is approved by a majority vote of the qualified voters of the county voting in an election on the issue. The transactions and use tax shall conform to Part 1.6 (commencing with Section 7251).

SEC. 3. The combined rate of tax imposed in any county by any entity pursuant to Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), this chapter, and any other provision of law authorizing the imposition of local sales or transactions and use taxes shall not exceed 2.25 percent. Neither this chapter nor any ordinance or resolution approved pursuant to this chapter shall affect any tax otherwise authorized.

SEC. 4. The Legislature finds and declares that this act complies with, and is intended to implement, the provisions of Article 3.7 (commencing with Section 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, as added by Proposition 62 at the November 4, 1986, general election.

CHAPTER 1258

An act to repeal and add Chapter 13.5 (commencing with Section 26250) of Part 2 of Division 2 of Title 3 of the Government Code, and to add Section 7252.11 to the Revenue and Taxation Code, relating to San Diego County.

[Became law without Governor's signature. Filed with Secretary of State September 28, 1987]

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

SECTION 1. Chapter 13.5 (commencing with Section 26250) of Part 2 of Division 2 of Title 3 of the Government Code is repealed.

SEC. 2. Chapter 13.5 (commencing with Section 26250) is added to Part 2 of Division 2 of Title 3 of the Government Code, to read:

CHAPTER 13.5. SAN DIEGO COUNTY REGIONAL JUSTICE FACILITY FINANCING ACT

Article 1. General Provisions, Findings, and Definitions

26250. This chapter shall be known and may be cited as the San Diego County Regional Justice Facility Financing Act.

26251. The Legislature hereby finds and declares that the existing state of overcrowding in the jails and court facilities in San Diego County is so great as to significantly impede the administration of justice and create a situation wherein persons who are a danger to society are required to be released into that society for lack of adequate facilities to house them. The Legislature further finds and declares that it is in the public interest to create the San Diego County Regional Justice Facility Financing Agency and to allow the voters to approve a general tax so that regional justice facility needs may be addressed in an expeditious and appropriate fashion.

26252. "Bonds" means indebtedness and securities of any kind or class, including bonds, notes, bond anticipation notes, and commercial paper.

26253. "Agency" means the San Diego County Regional Justice Facility Financing Agency.

26254. "County" means the County of San Diego.

26255. "Board of supervisors" means the Board of Supervisors of the County of San Diego.

26256. "Master plan" means the plan for construction and acquisition of adult and juvenile detention facilities and courthouse facilities, and structures necessary or convenient thereto. The plan shall be developed and approved, and may be amended from time to time, by the board of supervisors. The master plan may include, but is not limited to, the following:

(a) The number of adult and juvenile detention facilities to be constructed, furnished, or acquired.

(b) The number of courthouse facilities to be constructed, furnished, or acquired.

(c) The geographic locations at which the facilities referenced in subdivisions (a) and (b) shall be sited

(d) The time schedule according to which the facilities referenced in subdivisions (a) and (b) shall be constructed, furnished, or acquired.

(e) Construction standards which shall apply to facilities constructed, furnished, or acquired pursuant to this chapter.

(f) Design standards which shall apply to facilities constructed, furnished, or acquired pursuant to this chapter.

(g) Those other requirements as the board of supervisors, in carrying out its responsibility for the provision of regional detention and court services, deems necessary and appropriate.

Article 2. Creation of the Agency, Powers and Duties, Membership

26260. There is hereby created the San Diego County Regional Justice Facility Financing Agency in the county.

26261. (a) The board of directors of the agency shall be comprised of seven members, as follows:

(1) Two members of the board of supervisors, one of whom shall be the chairperson of the board of supervisors, and one of whom shall be appointed by, and serve at the pleasure of, the board of supervisors.

(2) One member of the City Council of the City of San Diego who shall be appointed by, and serve at the pleasure of, the city council.

(3) One member of the city council of a city in San Diego County, other than the City of San Diego, who shall be appointed by, and serve at the pleasure of, the San Diego County city selection committee created pursuant to Article 11 (commencing with Section 50270 of Chapter 1 of Part 1 of Division 1 of Title 5.

(4) One person who shall be appointed by, and serve at the pleasure of, the presiding judge of the San Diego Superior Court.

(5) One person who shall be appointed by, and serve at the pleasure of, a majority of the presiding judges of the municipal court districts in San Diego County.

(6) The Sheriff of San Diego County.

(b) The chairperson of the board of supervisors shall serve as the chairperson of the board of directors of the agency through December 31, 1989. Thereafter, the chairperson of the board of directors of the agency shall be elected by vote of a majority of the members of the board of directors of the agency and shall serve for a period of one calendar year.

(c) The board of directors shall adopt those rules and procedures as it deems necessary to conduct its business.

26262. The agency may adopt a seal and alter it at its pleasure.

26263. The agency may sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

All claims for money or damages against the agency are governed by Division 3.6 (commencing with Section 810) of Title 1, except as provided therein, or by other statutes or regulations expressly applicable thereto.

26264. The agency may compensate the members of its board of directors for all reasonable and necessary expenses incurred in the course of performing their duties.

26265. The agency may employ an executive officer and clerical staff as may be necessary for the administration of the affairs of the agency. All other reasonably necessary staff shall be provided by the county or, with the concurrence of the board of supervisors, may be hired by the agency. The county shall be reimbursed by the agency for the costs of any staff services provided to the agency by the county in accordance with an agreement entered into between the parties.

26266. The agency may enter into contracts. The agency may employ attorneys and consultants as necessary or convenient to carrying out its purposes and powers.

26267. (a) The agency shall do all of the following:

(1) Administer this chapter.

(2) Finance the construction, acquisition, and furnishing of adult and juvenile detention facilities, courthouse facilities, and structures necessary or convenient thereto, in compliance with a master plan developed and approved, as amended from time to time, by the board of supervisors for that purpose.

(3) Finance the acquisition of necessary lands, easements, and rights-of-way at sites designated or approved by the board of supervisors, including reimbursement to the county for any costs incurred by the county in acquiring such lands, easements, and rights-of-way.

(4) Hold title as necessary to land or facilities and, upon request of the board of supervisors, convey title to such land or facilities to the county.

(5) Upon request of the board of supervisors, retire all or a portion of any capital debt previously incurred for any adult or juvenile detention facilities or courthouse facilities which exists on the date the election is held for voter approval of the retail transactions and use tax ordinance authorized by this chapter.

(6) Upon request of the board of supervisors, do the following:

(A) Allocate up to 25 percent of the annual proceeds of the retail transactions and use tax authorized by this chapter to the county to reimburse costs incurred by the county in the operation of any facility constructed or acquired pursuant to this chapter, provided the board of supervisors certifies to the agency that progress toward completion of adult and juvenile detention facilities and courthouse

facilities has progressed substantially in accordance with the master plan approved by the board of supervisors.

(B) Allocate up to 50 percent of the proceeds for the purposes set forth in paragraph (A), provided the board of supervisors certifies to the agency that all current master plan requirements have been met.

(b) With the concurrence of the board of supervisors, the agency may construct, furnish, and acquire adult and juvenile detention facilities, courthouse facilities, and structures necessary or convenient thereto, in accordance with the master plan referred to in subdivision (a).

26268. The agency may do all things necessary or convenient to carry out the purposes of this chapter.

26269. The initial meeting of the agency shall be held in the county when called by the board of supervisors. At that meeting, or at any subseqent meeting of the agency called by the board of supervisors for the purposes of approving the transactions and use tax ordinance and ballot proposition, the agency shall approve a transactions and use tax ordinance and ballot proposition in the form and content submitted by the board of supervisors and shall call an election in accordance with Article 3 (commencing with Section 26270). The board of supervisors shall file all written arguments, including rebuttal arguments, in favor of the ballot proposition. However, other persons or agencies authorized by the board of supervisors may also sign any arguments. No arguments shall exceed 500 words in length.

Article 3. Transactions and Use Tax

26270. The Legislature, by the enactment of this article, intends the additional funds provided by this article to supplement existing local revenues being used for the development of regional justice facilities. Government agencies are encouraged to maintain their existing commitment of local funds for regional justice facility purposes.

26271. A retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of the county shall be adopted by the agency in accordance with Section 26275 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 agency. The tax ordinance shall take effect at the close of the polls on the day of the election at which the proposition is adopted. The initial collection of the transactions and use tax shall take place in accordance with Section 26274.

26272. The ordinance shall state the tax rate and may state a term during which the tax will be imposed. The purposes for which the tax may be imposed are the general governmental purposes of the agency as set forth in Section 26267.

26273. (a) The county shall conduct an election called by the

agency. The election shall be held within the incorporated and unincorporated areas of the county.

(b) The election shall be called and conducted in the same manner as provided by law for the conduct of elections by a county.

(c) The cost incurred by the county in conducting the election shall be reimbursed by the agency from proceeds of the transactions and use tax.

26274. (a) Any transactions and use tax ordinance adopted pursuant to this article shall become 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 agency shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of the ordinance.

26275. The agency, subject to the approval of the voters, may impose a tax rate of one-half of 1 percent under this chapter and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code. Neither this chapter nor the ordinance shall affect any tax otherwise authorized.

26276. The combined rate of tax imposed in San Diego County by any entity pursuant to Part 1.5 (commencing with Section 7200) or Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, this chapter, and any other provision of law authorizing the imposition of local sales or transactions and use taxes shall not exceed 2.25 percent. Neither this chapter nor any ordinance or resolution approved pursuant to this chapter shall affect any tax otherwise authorized.

26277. (a) The agency, 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 appropriation limit of the agency.

(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.

26278. (a) The bonds authorized by the voters concurrently with the approval of the retail transactions and use tax may be issued by the agency 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 the transactions and use tax revenues for the limited tax bonds authorized under this article shall have priority over the use of any of the revenues for other purposes except to the extent that the priority is expressly restricted in the resolution authorizing the issuance of the bonds.

26279. The agency may provide for the bonds to bear a variable or fixed interest rate, for the manner and intervals in which the rate shall vary, and for the dates on which the interest shall be payable.

26280. Limited tax bonds shall be issued pursuant to a resolution adopted at any time, and from time to time, by vote of the board of directors of the agency.

26281. Any bonds issued pursuant to this article are a legal investment for all trust funds; for the funds of insurance companies, commerical 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.

26282. 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 pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. 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.

26283. The agency 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.

26284. It is the intent of the Legislature in enacting this chapter to ensure that the county is not deprived of state funds which might be made available to finance needed justice system facilities subsequent to the enactment of this chapter, whether those funds be provided by statute or constitutional amendment. To that end, any ballot measure seeking voter approval for a local transactions and use tax to finance justice system facilities pursuant to this chapter shall contain language which will result in a reduction in the amount of revenue generated annually by that tax equivalent to the amount of state funding made available annually to the county pursuant to a subsequently enacted state program to fund the acquisition or development of required justice facilities.

26285. If any provision of this chapter or the application thereof to any person or circumstance 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.

SEC. 3. Section 7252.11 is added to the Revenue and Taxation Code, to read:

7252.11. "District," as used in this part, also means the San Diego County Regional Justice Facility Financing Agency, if authorized to impose transactions and use taxes pursuant to this part.

SEC. 4. 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, and (2) self-financing authority is provided 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.

CHAPTER 1259

An act to add and repeal Title 12 (commencing with Section 93000) to the Government Code, relating to transportation.

[Became law without Governor's signature Filed with Secretary of State September 28, 1987]

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

SECTION 1. Title 12 (commencing with Section 93000) is added to the Government Code, to read:

TITLE 12. CALIFORNIA-NEVADA SUPER SPEED GROUND TRANSPORTATION COMPACT

93000. The Legislature of California hereby ratifies and approves the "California-Nevada Super Speed Ground Transportation Compact" as set forth below.

93001. The provisions of this interstate compact executed between the States of Nevada and California are as follows:

CALIFORNIA-NEVADA SUPER SPEED GROUND TRANSPORTATION COMPACT

ARTICLE I. DECLARATIONS OF POLICY

(a) It is found and declared that the passage of this compact is a declaration of legislative intent that the States of California and Nevada jointly consider, and if justified, pursue the development of a super speed ground transportation system connecting southern California with southern Nevada.

(b) The system will serve the following public purposes:

(1) Provide economic benefits to both southern California and southern Nevada.

(2) Reduce reliance on gasoline and diesel fueled engines and encourage the use of alternative energy sources.

(3) Reduce congestion on Interstate 15 between southern California and Las Vegas.

(4) Provide a working example for a state-of-the-art transportation system that could play an essential role in the development of future commuter service in the Los Angeles basin and the Las Vegas valley.

(5) Provide quick and convenient transportation service for residents and visitors visiting in southern California and southern Nevada.

ARTICLE II. DEFINITIONS

(a) "Commission" means the California-Nevada Super Speed Ground Transportation Commission.

(b) "Southern California" means the Counties of Los Angeles, Orange, Riverside, and San Bernardino.

(c) "Super Speed Ground Transportation System" means a system that is capable of speeds of at least 180 miles-per-hour and primarily carries passengers and operates on a grade separated, dedicated guideway.

ARTICLE III. ORGANIZATION

(a) There is created the California-Nevada Super Speed Ground Transportation Commission as a separate legal entity.

The governing body of the commission shall be constituted as follows:

(1) California delegation:

(A) Four members appointed by the Governor of California who shall all be residents of southern California.

(B) Two members appointed by the Senate Committee on Rules, one of whom shall be a resident of the County of San Bernardino and one of whom shall be a resident of the County of Riverside.

(C) Two members appointed by the Speaker of the Assembly, one of whom shall be a resident of the County of Los Angeles and one of whom shall be a resident of the County of Orange.

(2) Nevada delegation of eight members appointed as required by Nevada law.

(3) The commission shall elect one of its members to be the chairperson.

(4) All commission members shall be appointed before February 1, 1988.

ARTICLE IV. POWERS AND DUTIES

(a) The commission may prepare a study, secure a right-of-way, and award a franchise for the construction and operation of a super

speed ground transportation system at no expense to the State of California principally following the route of Interstate Highway 15 between the City of Las Vegas, Nevada, and a point in southern California. The commission shall not include in the study any site for the western terminus unless the board of supervisors of the county of the proposed site after public hearings approves that site selection.

(b) Before the commission or a franchisee begins construction and before receipt of final certificates and permits necessary for construction or use of public right-of-way, the route and terminals selected by the commission, as part of the final study, shall first be submitted to, and ratified by, the California Legislature, by statute, and the Nevada Legislature or Nevada Legislative Commission, as required by Nevada law. As a condition of awarding a franchise, the commission shall require the franchisee to comply with this subdivision.

(c) Subject to subdivision (b), the commission may do any of the following:

(1) Acquire or gain control or use of land for right-of-way, stations, and ancillary uses through purchase, gift, lease, use permit, or easement.

(2) Conduct engineering and other studies related to the selection and acquisition of right-of-way and the selection of a franchisee, including, but not limited to, environmental impact studies, socioeconomic impact studies, and financial feasibility studies. All local, state, and federal environmental requirements will be met by the commission.

(3) Evaluate alternative super speed rail technologies, systems, and operators, and select a franchisee to build and operate the super speed rail system between southern California and Las Vegas.

(4) Establish criteria for the award of the franchise.

(5) Accept grants, gifts, fees, and allocations from Nevada or its political subdivisions, the federal government, foreign governments, and any other private sources. There shall be no public cost to the State of California or any of its political subdivisions.

(6) Issue debt, but this debt shall not constitute an obligation of the States of California or Nevada, or any of their political subdivisions.

(7) Hire an executive officer, other staff, and any consultants deemed appropriate.

(8) Select the exact route and terminal sites.

(9) Obtain, or assist the selected franchisee in obtaining all necessary permits and certificates from governmental entities in California and Nevada. No construction shall begin until all necessary rights to construct are obtained, including certificates of public convenience and necessity from the California Public Utilities Commission and the Nevada Public Service Commission.

(d) The commission may incorporate under the laws of California or Nevada. It shall have the power to sue and be sued, to contract

and be contracted with, and to have and possess all of the powers of a corporation. It may adopt a corporate seal. Copies of its proceedings, records, and acts, when authenticated, shall be admissible in evidence in all courts of either state and shall be prima facie evidence of the truth of all statements therein. The members of the commission and its agents and employees are not liable for any damages that result from any act or omission in the performance of their duties or the exercise of their powers pursuant to this title.

(e) This compact shall remain in effect only until January 1, 1992.

ARTICLE V. TERMINATION

93002. This title shall remain in effect only 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.

CHAPTER 1260

An act to add and repeal Section 1530.6 of the Health and Safety Code, and to add Section 16508.2 to, the Welfare and Institutions Code, relating to child welfare services, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature. Filed with Secretary of State September 28, 1987.]

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

SECTION 1. The Legislature finds and declares that there has been an increase of children placed in foster care during the past several years and that the average cost for a child placed in foster care has also increased.

The Legislature also finds and declares that California, unlike many other states, has not developed many alternatives to 24-hour foster care placements. This is not only detrimental to children and families, but is expensive for the state.

It is the policy of this state to keep children with their families whenever possible and to shorten stays in foster care whenever possible. Day treatment is an alternative which can be used to prevent more costly 24-hour placements and to shorten stays in foster care by returning children to their families while still maintaining the program of counseling or treatment established in foster care.

The Legislature has created a new community care facility category entitled a "Day Treatment Facility." Accordingly, current law permits courts to place children in day treatment and to order parental participation in the programs.

It is the intent of the Legislature that the State Department of Social Services explore the use of day treatment as an alternative to

traditional foster care placements.

SEC. 2. Section 1530.6 is added to the Health and Safety Code, to read:

1530.6. (a) The department shall, with the advice and assistance of representatives of the counties and day treatment providers, establish regulations, including program standards, for day treatment facilities, licensed pursuant to Section 1502, as soon as possible but no later than January 1, 1989.

(b) This section shall remain in effect only until July 1, 1990, and as of that date is repealed, unless a later enacted statute chaptered prior to that date deletes or extends that date.

SEC. 3. Section 16508.2 is added to the Welfare and Institutions Code, to read:

16508.2. (a) It is the intent of the Legislature to establish additional alternatives to foster care placements. Day treatment is an alternative which has been shown in other states to be effective in reunifying families, and in avoiding or shortening the time the children must stay in foster care, and to be significantly less expensive than foster care.

(b) The State Department of Social Services shall establish an advisory committee consisting of representatives of the Department of Finance, the County Welfare Directors Association, the California Association of Services for Children, the National Association of Social Workers, the California Association of Children's Homes, and the California Children's Lobby. The advisory committee shall assist the department in the development of day treatment standards, as required by Section 1502 of the Health and Safety Code, in order that such programs can be created as an alternative to placement in foster care and as a means of reunifying children with their families from such placements. The department shall submit a report on day treatment to the Legislature no later than April 1, 1988. The report shall include, but not be limited to, all of the following:

(1) The criteria for the types of children who could be served by day treatment programs.

(2) The types of services which could be provided to such children through day treatment.

(3) The potential cost savings which could be realized through the use of day treatment as an alternative to 24-hour, out-of-home placement.

(4) Recommendations for funding day treatment as an alternative to foster care.

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 the widest range of protective services to abused and neglected children as early as possible, it is necessary for this act to take effect immediately.

CHAPTER 1261

An act to add Section 11811.5 to the Health and Safety Code, relating to chemical dependency, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987.]

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

SECTION 1. Section 11811.5 is added to the Health and Safety Code, to read:

11811.5. In addition to any other services authorized under this chapter the department shall urge the county, in the county alcohol program plan to, develop within existing resources specific policies and procedures no later than January 1, 1988, to address the unique treatment problems presented by persons who are both mentally disordered and chemically dependent. If contained in the county alcohol program plan, priority shall be given to developing policies and procedures that relate to the diagnosis and treatment of homeless persons who are mentally disordered and chemically dependent.

The director shall consult with the Director of Mental Health in developing guidelines for county mental health and alcohol and drug treatment programs in order to comply 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:

Thousands of homeless mentally disordered are also chemically dependent and there are few treatment programs specifically designed to address this dual diagnosis. In order to address this problem and to develop appropriate treatment programs it is necessary that this act take immediate effect.

CHAPTER 1262

An act to amend Sections 744, 5141, and 5142 of, to amend and renumber Sections 5146 and 5148 of, to add Section 5148 to, and to repeal Section 5149 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987.]

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

SECTION 1. Section 744 of the Revenue and Taxation Code is amended to read:

744. (a) The board shall notify the petitioner of its decision on a petition for reassessment by mail and shall make written findings and conclusions if requested at or prior to the commencement of the hearing. The board shall send a copy of its decision and any written findings and conclusions thereon to each county in which the affected state-assessed property is situated. The findings shall fairly disclose the board's determination of material factual issues and shall contain a statement of the method or methods of valuation used by the board in valuing the property. Decisions of the board on petitions for reassessment of state-assessed property shall be completed on or before December 31.

(b) When the value of an assessee's state-assessed property is determined, after a hearing on a petition for reassessment, to be different from the value originally adopted by the board, the board shall determine the year in which the corrected value is to be entered on the roll. The correct value may be entered on the roll for the fiscal year in which the determination is made, or the difference between the original and the corrected value may be entered as an increase or decrease in the assessment for the succeeding fiscal year. If the corrected value is entered on the roll for the fiscal year in which it is determined, and the board roll has been transmitted to the county auditors, the board shall make the corresponding changes in allocations and transmit the roll corrections to the county auditor.

(c) If the amount of the correction is to be entered on the roll for the succeeding fiscal year, an amount is to be added in lieu of interest. If the correction results in a reduction in assessed value, there shall be added to the reduction, in lieu of interest, 9 percent of the difference between the original assessed value and the reduced assessed value. If the correction results in an increase in assessed value, there shall be added to the increase, in lieu of interest, 9 percent of the difference between the original assessed value and the increased assessed value.

SEC. 2. Section 5141 of the Revenue and Taxation Code is amended to read:

5141. (a) An action brought under this article, except an action brought under Section 5148, shall be commenced within six months from and after the date that the board of supervisors or city council rejects a claim for refund in whole or in part.

(b) Except as provided in subdivision (c), if the board of supervisors or city council fails to mail notice of its action on a claim for refund within six months after the claim is filed, the claimant may, prior to mailing of notice by the board of supervisors or city council of its action on the claim, consider the claim rejected and bring an action under this article.

(c) If an applicant for the reduction of an assessment states in the

application that the application is intended to constitute a claim for refund pursuant to Section 5097, the claim for refund shall be deemed denied on the date the final installment of the taxes extended on such assessment becomes delinquent or on the date the equalization board makes its final determination on the application, whichever is later.

SEC. 3. Section 5142 of the Revenue and Taxation Code is amended to read:

5142. No action shall be commenced or maintained under this article, except under Section 5148, unless a claim for refund has first been filed pursuant to Article 1 (commencing with Section 5096).

No recovery shall be allowed in any such action upon any ground not specified in the claim.

SEC. 4. Section 5146 of the Revenue and Taxation Code is amended and renumbered to read:

5149. All courts wherein actions brought under this part are or hereafter may be pending shall give those actions precedence over all other civil actions therein, except actions to which special precedence is given by law, in the matter of setting same for hearing or trial, and in hearing the same, to the end that all those actions shall be quickly heard and determined.

SEC. 5. Section 5148 of the Revenue and Taxation Code is amended and renumbered to read:

5146. If all or any portion of the taxes sought to be recovered were collected by officers of the county for a city or cities, an action must be brought against the county for the recovery of those taxes. When an action is filed against a county for taxes collected by the county on behalf of a city or cities, the county shall give notice of that action to the city or cities within 30 days of the county's receipt of the summons and complaint. A fee shall be payable by the assessee in an amount prescribed by the court to cover the reasonable costs incurred by a county or counties in giving the required notice. Any city receiving notice of the action filed against the county may, within 30 days of the receipt of that notice, intervene in that action. Whether or not a city intervenes in the action, any judgment rendered for an assessee shall be entered exclusively against the county; however, the county shall be entitled to recover separately from the city or cities and other tax entities those taxes collected by the county on behalf of the city or cities and other tax entities which are subject to refund to the assessee as a result of the judgment. Payment to the taxpayer upon the judgment and any interest thereon may be deferred by the county until the apportionment of property tax revenue next following the date of the judgment, or as the county and the taxpayer may otherwise agree. Interest shall accrue during any deferral period unless the county and taxpayer otherwise agree. The county may if it chooses to do so offset the amount of the judgment and interest recoverable by it from the city or cities and other tax entities against amounts held in the county treasury therefor or against amounts due and payable thereto,

including, but not limited to, property tax apportionments. The amount of the fee required by this section shall not be recoverable by the assessee in the action and no judgment entered in the action in favor of the assessee shall provide for the recovery of the fee.

As used in this section, "county" includes a city and county.

If all or any portion of the taxes sought to be recovered were levied on state-assessed property, property which the board has found ineligible for the welfare exemption pursuant to Section 254.5, or property as to which the board has reviewed the assessment pursuant to Section 11 of Article XIII of the Constitution, the board shall be joined as a party to the action.

SEC. 6. Section 5148 is added to the Revenue and Taxation Code, to read:

5148. Notwithstanding Section 5140, an action to recover taxes levied on state-assessed property arising out of a dispute as to an assessment made pursuant to Section 721, including a dispute as to valuation, assessment ratio, or allocation of value for assessment purposes, shall be brought under this section. In any action brought under this section, the following requirements shall apply:

(a) The action shall be brought by the state assessee. There shall be a single complaint with all parties joined therein with respect to disputes for any year.

(b) The action shall name the board and the county or counties. When a county is named which collected taxes on behalf of a city or cities, the county shall give notice of that action to the city or cities within 30 days of receipt of advice from the board of the action. A fee shall be payable by the state assessee in an amount prescribed by the court to cover the reasonable costs incurred by a county or counties in giving that notice. Any city receiving notice of the action filed against the board and the county may, within 30 days of the receipt of that notice, intervene in that action. Whether or not a city intervenes in the action, any judgment rendered for an assessee shall be entered exclusively against the county; however, the county shall be entitled to recover separately from the city or cities and other tax entities those taxes collected by the county on behalf of the city or cities and other tax entities which are subject to refund to the assessee as the result of the judgment. Payment to the taxpayer upon the judgment and any interest thereon may be deferred by the county until the apportionment of property tax revenue next following the date of the judgment, or as the county and the taxpayer may otherwise agree. Interest shall accrue during any deferral period unless the county and taxpayer otherwise agree. The county may if it chooses to do so offset the amount of the judgment and interest recoverable by it from the city or cities and other tax entities against amounts held in the county treasury therefor or against amounts due and payable thereto, including, but not limited to, property tax apportionments. The amount of the fee required by this section shall not be recoverable by the assessee in the action and no judgment entered in the action in favor of the assessee shall provide

for the recovery of the fee.

As used in this section, "county" includes a city and county.

(c) Service of the summons and complaint shall be only upon the board. The board shall serve as agent of the defendant county or counties for the purpose of service of process. A fee shall be payable by the state assessee in an amount prescribed by the court to cover all reasonable costs incurred by the board while acting in its capacity as agent for the defendant counties.

(d) Venue of the action shall be in any county in which the Attorney General of California has an office or in which the state assessee has a significant presence.

(e) The action shall be limited in the case of valuation and allocation disputes to the grounds specified in the following:

(1) A petition for reassessment filed under Section 741, or any proceeding thereon.

(2) A petition for correction of allocated assessment filed under Section 747, or any proceeding thereon.

(f) A timely filed petition for reassessment or petition for correction of allocated assessment shall constitute a claim for refund if the petitioner states in the petition it is intended to so serve.

(g) The action shall be commenced only after payment of the taxes in issue and within four years after the latest of the dates that the State Board of Equalization mailed its decision or its written findings and conclusions on the following:

(1) A petition for reassessment filed under Section 741 and intended to constitute a claim for refund.

(2) A petition for correction of allocated assessment filed under Section 747 and intended to constitute a claim for refund.

(h) The action shall not be joined with any action filed under Section 5140.

(i) Any refund of tax overpayments and any interest thereon, determined in any action brought under this section to be due shall be made by the defendant county or counties.

SEC. 7. Section 5149 of the Revenue and Taxation Code is repealed.

CHAPTER 1263

An act to amend Section 11008.14 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 11008.14 of the Welfare and Institutions Code is amended to read:

11008.14. To the same extent as required by federal law, the income of the natural or adoptive parent, and the spouse of the natural or adoptive parent, and the sibling of an eligible child, living in the same home with an eligible child shall be considered available, in addition to the income of an applicant for or recipient of aid under Chapter 2 (commencing with Section 11200), for purposes of eligibility determination and grant computation. Except as otherwise provided in this section, in the case of a parent or legal guardian of a minor who is also the parent of an eligible child, the income of the parent or guardian shall be considered available to the minor parent and eligible child to the same extent that income to a stepparent is considered available to an assistance unit, consistent with federal law.

This section shall be applied to all applicants for, and recipients of, Aid to Families with Dependent Children provided under Chapter 2 (commencing with Section 11200), except that income of a guardian of an applicant for, or recipient of, foster care benefits provided under Article 5 (commencing with Section 11400) of Chapter 2 shall not be considered available to the ward or to a child of the ward for the purpose of eligibility determination and grant computation under Chapter 2 (commencing with Section 11200). This section shall be applied regardless of whether federal financial participation is available for the family.

SEC. 2. The amendment of Section 11008.14 of the Welfare and Institutions Code does not constitute a change in, but is declaratory of, existing law, as expressed by the court in Hager v. McMahon, Los Angeles Superior Court Number C 608617.

CHAPTER 1264

An act to amend Section 7091 of, and to add Sections 7019, 7020, and 7065.3 to, the Business and Professions Code, relating to contractors, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987.]

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

SECTION 1. This act shall be known and may be cited as the "Areias-Stirling Contractors' State License Board Enforcement Act."

SEC. 1.5. (a) The Legislature finds and declares the following:

(1) The Contractors' State License Board has consistently failed to serve the needs of consumers who have attempted to file and resolve complaints against licensees of the board. This failure is underscored by the board's almost total lack of adequate technological means to communicate with consumers and others in a timely manner and to

manage its licensing and enforcement workload effectively.

(2) The failure of the Contractors' State License Board to preserve a measure of consumer protection in the contractor industry is evidenced by the board's tremendous backlog of uninvestigated consumer complaints which is increasing on a daily basis.

(3) The effect of the lack of accessibility, the complaint backlog, and the lack of enforcement action has been an inability of consumers to recover their financial losses and correct damages to their homes or businesses in a timely manner and the perpetuation of a largely risk-free environment for those contractors who violate the law.

(b) It is the intent of this act to enable the Contractors' State License Board to provide consumers with meaningful protection against contractors in violation of the law, to reduce the number of backlogged consumer complaints, and efficiently carry out its regulatory responsibilities.

SEC. 2. Section 7019 is added to the Business and Professions Code, to read:

7019. (a) If funding is made available for that purpose, the board may contract with licensed professionals, as appropriate, for the site investigation of consumer complaints. The registrar shall determine the rate of reimbursement for licensed professionals performing inspections on behalf of the board. All reports shall be completed on a form prescribed by the registrar.

(b) On or before January 1, 1990, the board shall report to the Legislature on the effectiveness of using licensed professionals for the inspection of consumer complaints.

(c) As used in this section, "licensed professionals" means, but is not limited to, engineers, architects, landscape architects, and geologists licensed, certificated, or registered pursuant to this division.

SEC. 3. Section 7020 is added to the Business and Professions Code, to read:

7020. On or before January 1, 1990, the board shall implement a computerized enforcement tracking system for consumer complaints.

SEC. 4. Section 7065.3 is added to the Business and Professions Code, to read:

7065.3. Notwithstanding Section 7065, the registrar may waive the written trade examination for an applicant who applies for licensure in a trade for which the board, by regulation, has waived the written trade examination. In these instances, experience submitted by the applicant shall be subject to review and investigation.

In adopting the regulation by which waiver of a trade examination may be granted, the board shall give due consideration to the health and safety concerns of the trade, the frequency of complaints generated by the license classification for the trade, and the number

of applicants for the trade.

SEC. 5. Section 7091 of the Business and Professions Code is amended to read:

7091. All complaints against licensees alleging commission of any acts or omissions which may be grounds for legal action shall be filed in writing with the registrar within three years after the act or omission alleged as the ground for the disciplinary action. All accusations and citations against licensees shall be filed within three years after the act or omission alleged as the ground for disciplinary action or within 18 months from the date of the filing of the complaint with the registrar, whichever is later, except that with respect to an accusation alleging a violation of Section 7112, the accusation may be filed within two years after the discovery by the registrar or by the board of the alleged facts constituting the fraud or misrepresentation prohibited by the section. Accusations regarding an alleged breach of an express, written warranty for a period in excess of three years issued by the contractor shall be filed within the duration of that warranty. The proceedings 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 registrar shall have all the powers granted therein.

Nothing in this section shall be construed to affect the liability of a surety or the period of limitations prescribed by law for the commencement of actions against a surety or cash deposit.

SEC. 6. The sum of three million one hundred ninety-one thousand dollars ($3,191,000) is hereby appropriated from the Contractors' License Fund to the Contractors' State License Board for expenditure according to the following schedule:

(a) For the purchase of an automated telephone answering system for district offices designated by the registrar	$952,000
(b) For completing the board's enforcement and licensing system, developing an application and examination system, and purchasing and installing an in-house computer to serve the board's informational needs in the areas of enforcement, licensing, and examinations	$1,955,000
(c) For providing consulting assistance for the implementation of the board's automated telephone answering system and to support the electronic data processing needs of the board..	$284,000

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 the need to address the current backlog facing the

Contractors' State License Board and the need to address consumers complaints in a timely manner, it is necessary that this act take effect immediately as an urgency statute.

CHAPTER 1265

An act to amend Section 8880.60 of the Government Code, relating to the California State Lottery, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987.]

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

SECTION 1. Section 8880.60 of the Government Code is amended to read:

8880.60. Contracts

(a) Subject to the approval of the Commission, the Director may directly solicit proposals or enter into contracts for the purchase or lease of goods or services for effectuating the purpose of this chapter. In awarding contracts in response to solicitations for proposals conducted by the California State Lottery, the Director shall award the contracts to the responsible supplier submitting the lowest and best proposal pursuant to the procedures adopted by the Commission as prescribed in subdivision (b) of Section 8880.56, which maximizes the benefits to the state in relation to cost in the areas of security, competence, experience, timely performance, and maximization of net revenues to benefit the public purpose described in this chapter. All contracts entered into by the Director shall be subject to the approval of the Commission.

(b) No member of the Commission shall, for a two-year period after the end of the member's term, accept any consideration from, whether directly or indirectly, and shall not accept any employment with, whether as an employee, independent contractor, or consultant, any Lottery Contractor successful in a major procurement whose contract award was subject to formal approval by the Commission. No Director shall accept any consideration from, whether directly or indirectly, and shall not accept any employment with, whether as an employee, independent contractor, or consultant, any Lottery Contractor successful in a major procurement for a period of two years commencing on the last day that the Director is employed by the Lottery. No other Lottery employee involved in the evaluation of or recommendation to award a major procurement shall accept any such consideration from, or employment with, any Lottery Contractor successful in that procurement for a period of one year commencing on the last day that the person is employed by the Lottery. In the event that the

Director, any member of the Commission, or other Lottery employee violates this subdivision, the Commission may terminate the contract between the Lottery and the Lottery Contractor for the major procurement. The Attorney General shall investigate the facts surrounding the violation and shall recommend to the Commission any appropriate civil remedies which the Lottery has against the Lottery Contractor, member of the Commission, Director, or other Lottery employee due to the violation, including, but not limited to, action to terminate the Lottery Contractor's contract where appropriate.

For purposes of this subdivision, "major procurement" means any procurement of materials, supplies, services, or equipment other than those common to the ordinary operations of state agencies.

The prohibitions imposed by this subdivision shall not apply to any person who left government service prior to the effective date of this subdivision, except that any such person who returns to government service on or after that date shall thereafter be covered thereby.

SEC. 2. The Legislature finds and declares that this act furthers the purpose of the California State Lottery Act of 1984.

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

In order to prevent the California State Lottery from entering into or continuing contracts for major procurements which may compromise the integrity of the Lottery at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 1266

An act to amend Sections 6365 and 6366.3 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 6365 of the Revenue and Taxation Code is amended to read:

6365. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use or other consumption in this state of, original works of art, which are:

(1) Purchased by this state or any city, county, city and county, or other local governmental entity;

(2) Purchased by any nonprofit organization operating any public museum for, and pursuant to contract with, any such governmental

entity;

(3) Purchased by any nonprofit organization which has qualified for exemption pursuant to Section 23701d for one or more museums regularly open to the public not less than 20 hours per week for not less than 35 weeks of the calendar year and operated by the purchaser of such art or operated by another nonprofit organization which has qualified for exemption pursuant to Section 23701d; or

(4) Purchased for donation and actually donated by delivery by the retailer pursuant to the instructions of the buyer to any such governmental entity, or nonprofit organization, and evidenced by a written transfer of title from the buyer to such governmental entity or nonprofit organization.

(b) The exemption provided by this section shall apply only to works of art purchased to become part of the permanent collection of any of the following:

(1) A museum.

(2) A nonprofit corporation which has qualified for exemption pursuant to Section 23701d; regularly loans not less than 85 percent of the value of its collection of works of art to one or more museums; and is required by its articles of incorporation to loan its works of art and is otherwise prohibited by its articles from making any private use of its works of art; provided, that the work of art for which the exemption is claimed pursuant to this section shall actually be placed on display at one or more museums in California for not less than 24 months during the three-year period commencing from the date of purchase.

(3) Any city, county, city and county, or other local governmental entity and this state which purchases or commissions public art for display to the public in buildings, parks, plazas, or other public places. These areas shall be open to the public not less than 20 hours per week for not less than 35 weeks of the calendar year.

(c) For purposes of this section, "work of art" means a work of visual art, including, but not limited to, a drawing, painting, mural, fresco, sculpture, mosaic, film, or photograph, a work of calligraphy, a work of graphic art (including, but not limited to, an etching, lithograph, offset print, silk screen, or a work of graphic art of like nature), crafts (including, but not limited to, crafts in clay, textile, fiber, wood, metal, plastic, glass, and like materials), or mixed media (including, but not limited to, a collage, assemblage, or any combination of the foregoing art media).

(d) For purposes of this section, a "museum" shall only include:

(1) A museum which has a significant portion of its space open to the public without charge; or

(2) A museum open to the public without charge for not less than six hours during any month the museum is open to the public; or

(3) A museum which is open to a segment of the student or adult population without charge.

(e) Any public entity or nonprofit organization claiming an exemption pursuant to this section shall maintain records, in such

forms as prescribed by the board, sufficient to substantiate its claim. Such records shall include, but not be limited to, the date of purchase, the purchase price, the date the property was first brought into this state, and the dates and locations the work of art was on display at a museum.

SEC. 2. Section 6366.3 of the Revenue and Taxation Code is amended to read:

6366.3. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use or other consumption in this state of tangible personal property purchased by the state or any local government entity as part of a public art collection which shall be considered a museum pursuant to paragraph (4) of subdivision (d) or a nonprofit museum regularly open to the public which is operated by or for a local or state government entity, or operated by a nonprofit organization which has qualified for exemption pursuant to Section 23701d, provided:

(1) The property is purchased to replace property which has been physically destroyed by fire, flood, earthquake, or other calamity;

(2) The property is purchased and used exclusively for display purposes within such museum; and

(3) The property is purchased within three years from the date the calamity occurred.

(b) The aggregate amount of the exemption provided by this section shall not exceed the value of the property destroyed on the date the calamity occurred.

(c) The exemption provided by this section extends only to items which have value as museum pieces and does not extend to display cases, shelving, lamps, lighting fixtures, or other items of tangible personal property utilized in the operation of a museum.

(d) For purposes of this section, a "museum" shall only include:

(1) A museum which has a significant portion of its space open to the public without charge; or

(2) A museum open to the public without charge for not less than six hours during any month the museum is open to the public; or

(3) A museum which is open to a segment of the student or adult population without charge; or

(4) A public art collection if that art work is on display in a space which is open to the public without charge.

SEC. 3. Notwithstanding Section 2230 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to the section nor shall there any appropriation made by this act because revenue losses to local agencies due to this act, if any, are minor in nature and will not cause any financial burden to local government.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 1267

An act to amend Section 8674 of the Business and Professions Code, relating to structural pest control, and making an appropriation therefor.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987.]

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

SECTION 1. Section 8674 of the Business and Professions Code is amended to read:

8674. The amount of the fees prescribed by this chapter is that fixed by the following schedule:

(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 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).

(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).

(s) Any person who pays a fee pursuant to subdivision (q) shall, in addition, pay a fee of two dollars ($2) for each pesticide use stamp purchased from the board. The fee established pursuant to this subdivision shall be deposited into the Structural Pest Control Research Fund which is hereby created and continuously appropriated to be used only for structural pest control research.

A charge for administrative expenses of the board in an amount not to exceed 5 percent of the amount collected and deposited in the Structural Pest Control Research Fund may be assessed against the fund. The charge shall be limited to expenses directly related to the administration of the fund.

The board shall, by regulation, establish a five-member research advisory panel including, but not limited to, representatives from each of the following: (1) the Structural Pest Control Board, (2) the structural pest control industry, (3) the Department of Food and Agriculture, and (4) the University of California. The panel shall solicit and review research proposals for recommendation to the board. The board shall distribute funds to qualified applicants, pursuant to the panel's recommendation, upon a two-thirds vote.

CHAPTER 1268

An act to add Section 1526 to the Civil Code, relating to accord and satisfaction.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 1526 is added to the Civil Code, to read:

1526. (a) Where a claim is disputed or unliquidated and a check or draft is tendered by the debtor in settlement thereof in full discharge of the claim, and the words "payment in full" or other words of similar meaning are notated on the check or draft, the acceptance of the check or draft does not constitute an accord and satisfaction if the creditor protests against accepting the tender in full payment by striking out or otherwise deleting that notation or if the acceptance of the check or draft was inadvertent or without knowledge of the notation.

(b) Notwithstanding subdivision (a), the acceptance of a check or

draft constitutes an accord and satisfaction if a check or draft is tendered pursuant to a composition or extension agreement between a debtor and its creditors, and pursuant to that composition or extension agreement, all creditors of the same class are accorded similar treatment, and the creditor receives the check or draft with knowledge of the restriction.

A creditor shall be conclusively presumed to have knowledge of the restriction if a creditor either:

(1) Has, previous to the receipt of the check or draft, executed a written consent to the composition or extension agreement.

(2) Has been given, not less than 15 days nor more than 90 days prior to receipt of the check or draft, notice, in writing, that a check or draft will be tendered with a restrictive endorsement and that acceptance and cashing of the check or draft will constitute an accord and satisfaction.

(c) Notwithstanding subdivision (a), the acceptance of a check or draft by a creditor constitutes an accord and satisfaction when the check or draft is issued pursuant to or in conjunction with a release of a claim.

(d) For the purposes of paragraph (2) of subdivision (b), mailing the notice by first-class mail, postage prepaid, addressed to the address shown for the creditor on the debtor's books or such other address as the creditor may designate in writing constitutes notice.

CHAPTER 1269

An act relating to the Department of the Youth Authority, and making an appropriation therefor.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987]

I am deleting the $55,000 appropriation contained in Section 2 of Assembly Bill No. 2330.

This bill would appropriate $55,000 to the Department of the Youth Authority to establish a visitor center at the Northern California Youth Center in Stockton.

The demands placed on budget resources require all of us to set priorities. The budget enacted in July, 1987 appropriated nearly $41 billion in state funds This amount is more than adequate to provide the necessary essential services provided for by State Government It is not necessary to put additional pressure on taxpayer funds for programs that fall beyond the priorities currently provided.

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties.

I would, however, consider funding the provisions of this bill during the budget process for Fiscal Year 1988–89. It is appropriate to review the relative merits of this program in comparison to all other funding projects. The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit

With this deletion, I approve Assembly Bill No. 2330.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. (a) The Legislature finds and declares the following:

(1) Maintaining a ward's family ties has a positive effect on the recidivism rate for youthful offenders.

(2) Enhancing visitor services increases the frequency and quality of visits, thereby discouraging violent ward activity.

(3) Enhancing visitor services provides wards with strong family support, which can have a stabilizing influence on the institution, benefiting the wards, the staff, and the community.

(4) The location of the Northern California Youth Center and lack of services to assist visitors impedes visiting.

(b) A visitor center shall provide, at a minimum, each of the following services to visitors:

(1) Outreach programs to wards' families.

(2) Assistance to visitors with transportation between public transit terminals and the Northern California Youth Center.

(3) Child care for visitor's children.

(4) Family counseling.

(5) Information on visiting regulations and processes.

(6) Referral to other agencies and services.

(7) Parent education.

(8) A sheltered area, which is outside of the security perimeter, for visitors who are waiting before or after visits.

In addition, the center shall maintain working relations with the local community and institution.

(c) The Department of the Youth Authority shall, on or before January 1, 1989, submit to the Legislature a report which includes, but is not limited to, the following information:

(1) A description of the barriers to visiting.

(2) A quantitative and narrative description of the services which it rendered.

(3) A description of the impact of the visitor center on visiting.

(4) A description of the community resources which it utilized.

(d) The goals of the nonprofit agency under contract with the Department of the Youth Authority to operate a visitor center shall be to achieve all of the following:

(1) Doubling the number of wards receiving visits from their families by the end of the final year of the contract, thus establishing positive family relationships.

(2) Improvement of ward institutional performance and behavior, resulting in reduced time spent by wards in institutions and concurrent savings in bed space.

(3) Improvement of ward parole performance, resulting in significant cost savings, as, in view of the current approximate twenty-eight thousand dollars ($28,000) per year costs of institutional maintenance of a ward, a reduction of recidivism of 10 percent a year would produce substantial savings.

(e) For purposes of program evaluation, records shall be maintained of wards receiving visits and families receiving services. The wards shall be traced through their institutional and parole experiences. Their success and failure rate shall be compared to that of wards who did not receive visits or services.

SEC. 2. The sum of fifty-five thousand dollars ($55,000) is hereby appropriated from the General Fund to the Department of the Youth Authority for the purpose of entering into a contract with a private, nonprofit agency, with prior experience in establishing and operating prison visitor centers in this state, in order to provide an onsite visitor center and related facilities and services at the Northern California Youth Center.

SEC. 3. This act shall be operative until January 1, 1989, and on that date is repealed.

CHAPTER 1270

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

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987]

I am reducing the appropriation contained in Section 1 (a) of Senate Bill No. 1310 from $49,649,834 to $43,699,834

I am reducing the $1,900,000 appropriation in Schedule (8) to $950,000. This money is for reimbursement to school districts of the costs to inspect school buildings for friable asbestos. The Education Code provides for reimbursement for similar activities on a dollar-for-dollar match basis Had the districts that are provided for in this bill applied under the Education Code for reimbursement, the maximum reimbursement received would have been an amount equal to one-half of the local funds spent for asbestos inspection activities. Therefore, it would seem reasonable and consistent that any amount appropriated for reimbursement to districts, be equivalent to the amount of reimbursement that the districts would otherwise have received under statute

With this reduction, I approve Senate Bill No. 1310

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The sum of forty-nine million six hundred forty-nine thousand eight hundred thirty-four dollars ($49,649,834) is hereby appropriated, in accordance with the following schedule, to the Controller for the payment of claims for reimbursement of state-mandated costs:

(a) Forty-nine million twelve thousand five hundred thirty dollars ($49,012,530) from the General Fund, to be allocated as follows:

(1) Six hundred eighty-five thousand dollars ($685,000) from the Surface Mining and Reclamation Account in the General Fund for the payment of claims of cities and counties seeking reimbursable state-mandated costs incurred through mineral resources policies established pursuant to Chapter 1131 of the Statutes of 1975 for the

1983–84, 1984–85, 1985–86, 1986–87, and 1987–88 fiscal years.

(2) Six million two hundred seventy-three thousand dollars ($6,273,000) for the payment of claims of counties seeking reimbursable state-mandated costs incurred through the judicial arbitration program pursuant to Chapter 743 of the Statutes of 1978 for the 1984–85, 1985–86, 1986–87, and 1987–88 fiscal years.

(3) Two hundred ninety-nine thousand dollars ($299,000) for the payment of claims of the City and County of San Francisco seeking reimbursable state-mandated costs incurred through superior court judgeships created pursuant to Chapter 1018 of the Statutes of 1979 for the 1979–80, 1980–81, 1981–82, 1982–83, 1983–84, 1984–85, 1985–86, 1986–87, and 1987–88 fiscal years.

(4) Sixteen million five hundred thousand dollars ($16,500,000) for the payment of claims of counties seeking reimbursable state-mandated costs incurred through marriage mediator programs pursuant to Chapter 48 of the Statutes of 1980 for the 1984–85, 1985–86, 1986–87, and 1987–88 fiscal years.

(5) One million four hundred forty-eight thousand dollars ($1,448,000) for the payment of claims of fire departments, fire protection districts, or other political subdivisions that employ firefighters, seeking reimbursable state-mandated costs incurred through the firefighters cancer presumption program pursuant to Chapter 1568 of the Statutes of 1982 for the 1982–83, 1983–84, 1984–85, 1985–86, 1986–87, and 1987–88 fiscal years.

(6) One million twenty-five thousand dollars ($1,025,000) for the payment of claims of counties seeking reimbursable state-mandated costs incurred through the Democratic Party presidential delegate selection process pursuant to Chapter 1603 of the Statutes of 1982 and Chapter 1166 of the Statutes of 1983 for the 1983–84, 1984–85, 1985–86, 1986–87, and 1987–88 fiscal years.

(7) Nineteen thousand dollars ($19,000) for the payment of claims of counties seeking reimbursable state-mandated costs incurred through mobilehome property tax postponement mandated pursuant to Chapter 1051 of the Statutes of 1983 for the 1983–84, 1984–85, 1985–86, 1986–87, and 1987–88 fiscal years.

(8) One million nine hundred thousand dollars ($1,900,000) for the payment of claims of school districts and county superintendents of schools seeking reimbursement for costs incurred through inspections of friable asbestos in school buildings pursuant to subpart E of Part 763 of Chapter I of Title 40 of the Code of Federal Regulations from June 28, 1982, to June 30, 1982, and in the 1982–83 fiscal year.

(9) Twenty million sixty-three thousand five hundred thirty dollars ($20,063,530) to cover deficiencies in prior appropriations for reimbursement of costs incurred under state-mandated programs.

(10) Eight hundred thousand dollars ($800,000) to reimburse local agencies pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs incurred by councils of government in complying with the requirements of

subdivision (a) of Section 65584 of the Government Code, so as to permit updating of local housing elements in accordance with Section 65588 of the Government Code, according to the following schedule:

(A) Two hundred twenty-five thousand dollars ($225,000) for the 1986–87 fiscal year in augmentation of category (w) of Item 8885-101-001 of the Budget Act of 1986.

(B) Five hundred seventy-five thousand dollars ($575,000) for the 1987–88 fiscal year in augmentation of category (27) of Item 8885-101-001 of the Budget Act of 1987.

(b) Six hundred thirty-seven thousand three hundred four dollars ($637,304) from the Restitution Fund to cover deficiencies in prior appropriations for reimbursement of state-mandated costs incurred pursuant to Chapter 1123 of the Statutes of 1977.

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 settle local government claims against the state for mandated costs and end hardship to local governments, it is necessary for this act to take effect immediately.

CHAPTER 1271

An act to amend Section 5405 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 28, 1987 Filed with Secretary of State September 28, 1987]

I am deleting the $55,000 appropriation contained in Welfare and Institutions Code Section 5405 (5) (g) of Senate Bill No. 240.

This appropriation is for the Office of the Attorney General, and is intended to cover their costs in representing the Department of Mental Health in appeal cases

While it is likely that appeal activities will occur, I believe that an appropriation for the Attorney General's Office at this time is premature Funds necessary for appeal activities should be addressed in the Department of Mental Health's budget through the normal budgetary process

With this deletion, I approve Senate Bill No 240.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 5405 of the Welfare and Institutions Code is amended to read:

5405. (a) The State Department of Mental Health shall establish, by regulation, program standards for any facility licensed as a community treatment facility providing mental health treatment services to seriously emotionally disturbed children, as defined in Section 5678.2, pursuant to subdivision (a) of Section 1502 of the

Health and Safety Code. This section shall apply only to community treatment facilities described in this subdivision.

(b) A certification of compliance issued by the State Department of Mental Health shall be a condition of licensure for the community treatment facility by the State Department of Social Services.

(c) The State Department of Mental Health shall adopt regulations to include, but not be limited to, the following:

(1) Procedures by which the State Director of Mental Health shall certify that a facility requesting licensure as a community treatment facility pursuant to Section 1502 of the Health and Safety Code is in compliance with program standards established pursuant to this section.

(2) Procedures by which the State Director of Mental Health shall deny a certification to a facility or decertify a facility licensed as a community treatment facility pursuant to Section 1502 of the Health and Safety Code, but no longer complying with program standards established pursuant to this section, in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) Provisions for site visits by the State Department of Mental Health for the purpose of reviewing a facility's compliance with program standards established pursuant to this section.

(4) Provisions for the community care licensing staff of the State Department of Social Services to report to the State Department of Mental Health when there is reasonable cause to believe that a community treatment facility is not in compliance with program standards established pursuant to this section.

(5) Provisions for the State Department of Mental Health to provide consultation and documentation to the State Department of Social Services in any administrative proceeding regarding denial, suspension, or revocation of a community treatment facility license.

(d) The standards adopted by regulations pursuant to subdivision (a) shall include, but not be limited to, standards for treatment staffing and for the use of psychotropic medication, discipline, and restraint in the facilities.

(e) During the initial public comment period for the adoption of the regulations required by this section, the community care facility licensing regulations proposed by the State Department of Social Services and the program standards proposed by the State Department of Mental Health shall be presented simultaneously. The public comment period shall commence no later than July 1, 1988.

(f) The sum of forty-five thousand dollars ($45,000) is hereby appropriated annually from the General Fund to the State Department of Mental Health for one personnel year to carry out the provisions of this section.

(g) The sum of fifty-five thousand dollars ($55,000) is hereby appropriated from the General Fund to the office of the Attorney General for purposes of representing the State Department of

Mental Health when a facility appeals a denial of certification or decertification as provided in 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 ensure the safety of children placed in community treatment programs, it is necessary that this act take effect immediately.

CHAPTER 1272

An act to amend Sections 19610.5 and 19612 of the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 19610.5 of the Business and Professions Code is amended to read:

19610.5. In addition to the amounts required to be paid as license fees under any other provision of this chapter, every association, except an association conducting a racing meeting pursuant to Section 19612.6 or 19614 or, an association conducting a harness meeting on a track of one mile or longer shall pay 1 percent of its exotic parimutuel pools to the state as an additional license fee.

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 that any harness association or its successor in interest which conducts a harness meeting on a track of one mile or longer shall retain that 0.75 percent as an additional commis-

sion. 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 Section 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 or its successor in interest which: (1) conducts its racing meeting at the facilities of a county fair or a district agricultural association or (2) conducted its racing meeting in a single continuous period prior to January 1, 1979, and thereafter conducts a split racing meeting, shall pay a daily license fee based upon its daily conventional and exotic parimutual 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 that any harness association or its successor in interest which conducts a harness meeting on a track of one mile or longer shall retain that 0.75 as an additional commission. 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, or which conducts its meeting pursuant to Section 19549.3 or 19549.9, 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. This act is an urgency statute necessary for the immediate preservation of the public peace, 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 to provide horseracing meetings that will maximize revenues to the state, it is necessary that this act take effect immediately.

CHAPTER 1273

An act to amend Sections 19488, 19491, 19596.5, 19610.5, 19612, 19612.6, 19614, 19614.1, 19618, 19619.6, and 19620 of, to amend and renumber Section 19596.10 of, to amend, repeal, and add Section 19442 of, to amend and repeal Section 19596.7 of, to add Sections 19442.5, 19535, 19596.4, 19596.6, and 19596.14 to, to add and repeal Section 19596.7 of, and to repeal Section 19498 of, the Business and Professions Code, relating to horseracing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 19442 of the Business and Professions Code is amended to read:

19442. The board shall contract with persons licensed as stewards pursuant to Section 19510 to perform the duties of stewards at horseracing meets and representatives of the affected racing associations shall be entitled to participate in the negotiation of the contracts. Contracts shall be upon such terms as the board and the stewards may mutually agree upon and may contain differing rates of compensation based upon the experience of the steward.

The board shall assess each racing association prior to the start of any race meet for an amount equal to the total compensation to be paid to the stewards assigned by the board to the race meet. The funds shall be paid to the board by the associations in equal installments at the end of each week, or partial week of racing. The board shall maintain these funds in a separate trust account in the State Treasury, and the board may withdraw advances from the trust account which are sufficient to meet the requirements of the stewards' compensation program, including costs incurred for reasonable and necessary administrative operations but in amounts not to exceed 2 percent of the total of funds assessed for the program.

The board shall establish a committee of at least two board members to meet at least quarterly with representatives of the stewards, so that recommendations of the stewards can be discussed as necessary. These meetings may be scheduled the same day as regular board meetings or at the convenience of the board.

This section shall be repealed on July 1, 1988.

SEC. 1.2. Section 19442 is added to the Business and Professions Code, to read:

19442. The board shall contract with persons licensed as stewards pursuant to Section 19510 to perform the duties of stewards at horseracing meets. Contracts shall be upon the terms as the board and the stewards may mutually agree upon and may contain

differing rates of compensation based upon the experience of the steward.

The board shall establish a committee of at least two board members to meet at least quarterly with representatives of the stewards, so that recommendations of the stewards can be discussed as necessary. These meetings may be scheduled the same day as regular board meetings or at the convenience of the board. Representatives of associations may attend and participate in these meetings, or portions thereof, when items directly affecting the associations are discussed.

The board shall provide compensation, including any fringe benefits, to stewards, to the official veterinarian, and for the costs of laboratory testing relating to horseracing.

This section shall become operative on July 1, 1988.

SEC. 1.3. Section 19442.5 is added to the Business and Professions Code, to read:

19442.5. When satellite wagering facilities are receiving a live audiovisual signal of a horseracing meeting, the board shall designate a steward at the track where the meeting is being conducted to be responsible for monitoring the satellite wagering activities at the track and at all satellite wagering facilities receiving the audiovisual signal.

SEC. 1.5. Section 19488 of the Business and Professions Code is amended to read:

19488. Every license issued under this article shall specify the following:

(a) The name of the person to whom it is issued.

(b) The track where the horseracing meeting to which it relates is to be held or conducted.

(c) The days and hours of the day when the meeting will be permitted.

(d) The number and types of races to be run on each day of the meeting.

(e) The number of usable stalls available for the meeting.

The license shall also recite the payment to and receipt by the board of the deposit to secure payment of the license fee required by this article.

SEC. 2. Section 19491 of the Business and Professions Code is amended to read:

19491. (a) Subject to the provisions of Sections 19491.5 and 19491.6, and except as provided in Section 19491.7, every association which conducts a racing meeting shall pay as an additional license fee one-half of the breakage deducted pursuant to Section 19597 on the first twenty-four million dollars ($24,000,000) or less, excluding wagering at a satellite wagering facility, of the total amount handled in the parimutuel pools relating to its meeting and all of the breakage deducted on amounts so handled in excess of twenty-four million dollars ($24,000,000), excluding wagering at a satellite wagering facility.

(b) Every association which conducts a racing meeting shall distribute the remaining one-half of the breakage deducted pursuant to Section 19597 on the first twenty-four million dollars ($24,000,000) or less, excluding wagering at a satellite wagering facility, of the total amount handled in the parimutuel pools relating to the meeting as additional purses and for additional commissions in the same proportion, as between purses and commissions, as provided in Sections 19611, 19612, 19612.5, 19612.6, and 19614.

(c) Notwithstanding the provisions of subdivision (b), one-half of all the breakage deducted pursuant to Section 19597 at fair racing meetings shall be retained and distributed as additional commissions. The amount distributed as purses and commissions shall be based on the respective parimutuel pools during the previous corresponding meeting, if any.

Payment of the fee shall be made weekly on account during each meeting, and the amount attributable to breakage shall be reported as a separate item.

SEC. 3. Section 19498 of the Business and Professions Code is repealed.

SEC. 3.5. Section 19535 is added to the Business and Professions Code, to read:

19535. Notwithstanding any other provision of law, at the time the board allocates racing weeks, it shall determine the number of usable stalls that each association or fair shall make available and maintain in order to conduct the racing meeting. The minimum number of stalls may be at the site of the racing meeting or, with the approval of the board, at an offsite location. All costs associated with the maintenance of the usable stalls for the racing meeting shall be borne by the association or fair conducting the meeting, and, with respect to usable stalls at an offsite location, the association or fair may be required, by order of the board, to bear the costs of vanning from the offsite location to the racing meeting, except that with respect to any racing association in the central or southern zone that conducted a racing meeting in 1986, if the number of usable stalls made available onsite by a racing association during a racing meeting is less than 95 percent of the number of usable stalls made available onsite by that racing association during its 1986 racing meeting, the racing association shall reimburse the facility providing offsite stabling for the difference in cost between the actual number of usable stalls made available and 95 percent of the usable stalls made available in 1986.

A racing association shall, in addition, reimburse the owner for vanning to the onsite location with respect to those horses stabled at an offsite location necessitated by the failure of a racing association to maintain 95 percent of the usable stalls made available by that racing association during its 1986 racing meeting.

SEC. 4. Section 19596.4 is added to the Business and Professions Code, to read:

19596.4. (a) An association other than a fair which conducts a

horseracing meeting with an average daily handle of one million five hundred thousand dollars ($1,500,000) or more shall produce a live audiovisual signal of its racing program and shall make this signal available, in accordance with paragraph (1) of subdivision (a) of Section 19596.5 and paragraph (2) of subdivision (b) of Section 19596.6, to any satellite wagering facility authorized to conduct wagering pursuant to Section 19596.5, 19596.6, or 19596.7.

(b) Unless the board finds it impractical to do so, any fair or any association with an average daily handle of less than one million five hundred thousand dollars ($1,500,000) may produce, at its option, a live audiovisual signal of its racing program. If the fair or association produces a signal of its program, the signal shall be made available, in accordance with paragraph (1) of subdivision (a) of Section 19596.5 and paragraph (2) of subdivision (b) of Section 19596.6, to any satellite wagering facility authorized to conduct wagering pursuant to Section 19596.5, 19596.6, or 19596.7.

(c) In order to permit racing associations providing audiovisual signals the ability to do so without undue burden and expense, in order to avoid unnecessary duplication of facilities, in order to permit the racing associations to protect the security of their signals, and in order to permit the racing associations to protect the integrity of their parimutuel pools and to account for wagering proceeds included in those parimutuel pools, associations and fairs providing audiovisual signals pursuant to subdivision (a) or (b) may form an organization to operate, pursuant to board supervision, the audiovisual signal system. An organization operating under board supervision pursuant to this subdivision may consist of any combination of associations and fairs. Nothing in this subdivision precludes any other person or business entity from participating in, or holding a financial interest in, an organization formed by associations or fairs to operate satellite wagering, except that the person or business entity shall be approved by the board. Any organization formed shall provide horsemen's organizations contracting with associations and fairs for racing meetings and nonracing fairs operating satellite wagering facilities meaningful representation on its governing board, and shall administer the audiovisual signal and parimutuel operations at satellite wagering facilities. An organization shall bear the costs of operating the audiovisual signal system, including the costs of leasing or purchasing and operation of equipment for transmission and decoding of audiovisual signals and wagering data, the costs of totalisator equipment, mutuel department labor and equipment charges, and the costs, including labor, and overhead of the organization administering the satellite wagering program. A satellite wagering facility shall bear the costs of satellite receiving dishes, head-end assemblies, television monitors or screens, facility buildings, labor at the satellite wagering facility other than mutuel department labor, and any and all other costs at the satellite wagering facility not specifically referred to above. The board shall approve all costs and

resolve any differences between an organization and a satellite wagering facility as to which party is required to bear the costs for a disputed item.

SEC. 5. Section 19596.5 of the Business and Professions Code, as amended by Chapter 252 of the Statutes of 1987, is amended to read:

19596.5. (a) Notwithstanding any other provision of law, the board may authorize an association licensed to conduct a racing meeting in the northern zone to operate a satellite wagering facility for wagering on races conducted in the northern zone at its racetrack inclosure, except during the part of the day racing is being conducted at its racetrack, and may, with the approval of the Department of Food and Agriculture, authorize any county fair, district agricultural association fair, or citrus fruit fair in the northern zone eligible for an allocation of racing days pursuant to Section 19549, but which is not licensed to conduct a racing meeting or authorized pursuant to Section 19596.7, to locate a satellite wagering facility at its fairgrounds for wagering on races conducted in the northern zone, if all of the following conditions are met:

(1) An organization described in subdivision (c) of Section 19596.4 has executed agreements, which are approved by the board, with the association conducting a racing meeting in the northern zone and the satellite wagering facility. The agreement shall provide, among other things, the conditions for transmission of the signal and that the wagers made at the satellite wagering facility will be included in the appropriate conventional or exotic pool at the racetrack where the racing meeting is conducted. Notwithstanding any other provision of law or any agreement under this subdivision, for purposes of determining license fees and breakage at the racetrack where the racing meeting is conducted, wagers at a satellite facility shall not be included in the conventional or exotic pools of the association conducting the racing meeting.

(2) The horsemen's organization which represents the horsemen at the association which conducts the racing meeting on which wagers are accepted consents to the acceptance of wagers at the satellite wagering facility, except that the association or fair operating the satellite wagering facility may appeal the withholding of consent to the board which may determine that consent is not required.

(3) The accommodations and equipment used in conducting wagering at the satellite wagering facility and their location have been approved by the board.

(4) The method used by the satellite wagering facility to transmit wagers, odds, results, and other data related to wagering has been approved by the board.

(5) Except as provided in Section 19596.9, any association or fair which conducts satellite wagering shall conduct wagering on all racing offered to the satellite wagering facility, as long as the satellite wagering facility is not sustaining a loss on either a day meeting or night meeting, as determined by the board, and, if sustaining a loss

on either a day meeting or night meeting, as long as that loss is reimbursed by either an organization described in subdivision (c) of Section 19596.4 or an association.

In calculating the loss, if any, for operating a satellite wagering facility for a night meeting, only the expenses incurred by the satellite wagering facility because of acceptance of night wagers shall be considered, and no overhead expenses or expenses which would be incurred regardless of the acceptance of night wagers shall be considered.

(b) Notwithstanding subdivision (a), during periods of the day when there is no night racing in the northern zone, the live audiovisual signal of night harness or quarter horse races in the central or southern zone may be offered to satellite wagering facilities in the northern zone, provided, however, that racing associations may accept that audiovisual signal, but are not required to do so.

(c) The total percentage deducted from wagers at satellite wagering facilities shall be the same as the deductions for wagers at the racetrack where the racing meeting is being conducted and shall be distributed as set forth in this section. Amounts deducted under this section shall be distributed as follows:

(1) On thoroughbred meetings only, 2.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 4.0 percent on exotic wagers shall be distributed to the state as a license fee, 2 percent shall be retained by the satellite wagering facility as a commission, 2.5 percent or the amount of actual operating expenses, as determined by the board, whichever is less, shall be distributed to an organization described in subdivision (c) of Section 19596.4, and 0.4 of 1 percent shall be distributed to the breeders in the form of breeders' awards, and one-tenth of 1 percent of the amount wagered at the satellite wagering facility shall be distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that these one-tenth of 1 percent funds to the Equine Research Laboratory shall supplement and not supplant other funding sources.

(2) On harness, quarter horse, Appaloosa, mixed breed, or fair meetings, 1.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 3.0 percent on exotic wagers shall be distributed to the state as a license fee, 2 percent shall be retained by the satellite wagering facility as a commission, 6 percent or the amount of actual operating expenses, as determined by the board, whichever is less, shall be distributed to an organization described in subdivision (c) of Section 19596.4, and, in the case of quarter horses and Appaloosas, 0.4 of 1 percent shall be distributed as breeders awards to breeders of quarter horses and Appaloosas and, in the case of standardbreds, 0.4 of 1 percent shall be distributed for the California Standardbred Sires Stallion Program pursuant to Section 19619, and one-tenth of 1 percent of the amount wagered at

the satellite wagering facility shall be distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that these one-tenth of 1 percent funds to the Equine Research Laboratory shall supplement and not supplant other funding sources.

(3) In addition to the distributions in paragraph (1) or (2), on thoroughbred meetings and harness, quarter horse, Appaloosa, mixed breed, or fair meetings, 1 percent of the total amount handled by the satellite wagering facility shall be distributed to an organization described in subdivision (c) of Section 19596.4 for promotion of the program and 0.33 of 1 percent of the total amount handled by the satellite wagering facility shall be paid to the city or county in which the satellite wagering facility is located pursuant to Section 19610.3 or 19610.4.

(d) On thoroughbred meetings only, the funds remaining after distribution of the amounts set forth in subdivision (c) shall be distributed 50 percent as commissions to the racing association which conducts the racing meeting and 50 percent as purses to the horsemen participating in the racing meeting, except that owners' premiums shall be paid from the amount distributed for purses in the same relative percentage as owners' premiums are paid at the racing meeting. Of the amount deducted for purses at the association conducting the racing meeting, 10 percent shall be distributed in the form of purses to horsemen who participate in racing fairs that operate satellite wagering facilities. The 10 percent of the purses for horsemen who participate in racing fairs shall be deposited in a separate account in the fund and, notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated to the Department of Food and Agriculture for supplementing purses at fair meetings to achieve the purposes of subdivision (i).

(e) On harness, quarter horse, Appaloosa, mixed breed, and fair meetings, the funds remaining after distribution of the amounts set forth in subdivision (c) shall be distributed 50 percent as commissions to the racing association which conducts the racing meeting and 50 percent to the horsemen in the form of purses at the association conducting the racing meeting.

(f) Except as provided in subdivisions (g) and (h), all revenues payable to the state as license fees from satellite wagering facilities located at fairs shall be deposited in a separate account in the fund and, notwithstanding Section 13340 of the Government Code, are hereby continuously appropriated to the Department of Food and Agriculture, for allocation by the Director of Food and Agriculture in his or her discretion, for the following purposes:

(1) For repayment of the principal of, and interest on, bonds issued by a joint powers agency, or of other debt service or expense incurred, for the purpose of constructing improvements only at a fair's racetrack inclosure, for the purpose of construction of satellite wagering facilities at fairs, and for health and safety repair projects and handicapped access compliance at fairs. Notwithstanding any

other law, the department may also commit any funds available for allocation under Article 10 (commencing with Section 19620) to complete projects funded under this paragraph in the priority described in this paragraph.

(2) For repayment of expenses incurred by fairs in establishing and operating satellite wagering facilities.

(3) For health and safety repair projects at fairs.

(4) For support purposes of fairs generally.

(g) Seven and one-half percent of all revenues payable to the state as license fees from satellite wagering facilities located at fairs shall be deposited in the General Fund.

(h) Up to 10 percent of all revenues payable to the state as license fees from satellite wagering facilities located at fairs shall be deposited in a special account in the fund and, notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated to the Department of Food and Agriculture for supplementing purses at fair meetings to achieve the purposes of subdivision (i). The department shall annually determine the percentage of revenues payable to the special account under this subdivision based on the amount necessary to achieve the purposes of subdivision (i).

(i) It is the intent of the Legislature that funds allocated pursuant to subdivision (h) be used primarily at fair racing meetings in the northern zone with a daily average handle of more than three hundred thousand dollars ($300,000). The Legislature further finds that its intent is that these allocations be used to bring the purses at these fairs, exclusive of purses for stakes races and special events, to a level of at least 80 percent of purses for similar classes of horses at private racing associations in the northern zone. The funds shall be used among all breeds. For fair racing meetings in the northern zone with a daily average handle of three hundred thousand dollars ($300,000) or less, it is the intent of the Legislature to bring the purses to a level of at least 25 percent of purses for similar classes of horses at private racing associations in the northern zone.

SEC. 6. Section 19596.6 is added to the Business and Professions Code, to read:

19596.6. (a) Notwithstanding any other provision of law, subject to the conditions and limitations set forth in this section and Section 19596.7, the following entities in the central or southern zone are eligible to be licensed to operate a satellite wagering facility for wagering on races conducted in the central or southern zone:

(1) Any county fair, district agricultural association fair, or citrus fruit fair which conducted general fair activities in 1986 within the central or southern zone, and which is eligible for an allocation of racing days pursuant to Section 19549, but which is not licensed to conduct a racing meeting, may locate a satellite wagering facility at its fairgrounds.

(2) Any association licensed to conduct a racing meeting in the central or southern zone.

(b) The board may authorize an eligible association or, with the approval of the Department of Food and Agriculture, an eligible fair, to operate a satellite wagering facility under all of the following conditions:

(1) A racing association licensed to conduct a racing meeting shall conduct satellite wagering only within its racing inclosure.

(2) An organization described in subdivision (c) of Section 19596.4 has executed an agreement approved by the board with the association conducting a racing meeting and the satellite wagering facility. The agreement shall provide, among other things, the conditions for transmission of the signal and that the wagers made at the satellite wagering facility are included in the appropriate conventional or exotic pool at the racetrack where the racing meeting is conducted.

(3) The accommodations and equipment used in conducting wagering at the satellite wagering facility and their location have been approved by the board.

(4) The method used by the satellite wagering facility to transmit wagers, odds, results, and other data related to wagering have been approved by the board.

(5) Any association or fair that operates a satellite wagering facility shall conduct wagering on all racing conducted in the central or southern zone that is offered to that satellite wagering facility, as long as the satellite wagering facility is not sustaining a loss on either a day meeting or a night meeting, as determined by the board, and, if sustaining a loss on either a day meeting or a night meeting, as long as that loss is reimbursed by either an organization described in subdivision (c) of Section 19596.4 or an association.

In calculating the loss, if any, for operating a satellite wagering facility for a night meeting, only the expenses incurred by the satellite wagering facility because of acceptance of night wagers shall be considered, and no overhead expenses or expenses of the satellite wagering facility which would be incurred regardless of the acceptance of night wagers shall be considered.

(c) Notwithstanding subdivision (a), a satellite wagering facility may not be located within the County of Los Angeles or within the County of Orange, except as follows:

(1) If all other conditions in subdivision (b) are met, the Fiftieth District Agricultural Association may be authorized to operate a satellite wagering facility upon its fairgrounds in the City of Lancaster and to accept wagers on races conducted in the southern and central zones.

(2) If all other conditions are met, any fair or association licensed to conduct racing meetings in the County of Los Angeles and any racing association other than a fair which is licensed to conduct racing in the County of Orange may be authorized to operate a satellite wagering facility for the limited purpose of conducting satellite wagering on races conducted at the Twenty-Second District Agricultural Association fairgrounds at Del Mar in the County of San

Diego, except that, when a fair in Orange County is licensed for a racing meeting, a satellite wagering facility located within the racing inclosure where the racing meeting is conducted may not operate on the days that racing is conducted.

(d) The total percentage deducted from wagers at satellite wagering facilities shall be the same as the percentage deducted from wagers at the racetrack where the racing meeting is being conducted and shall be distributed as set forth in this section. Amounts deducted by a satellite wagering facility under this section shall be distributed as follows:

(1) On thoroughbred meetings only, 2.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 4.0 percent on exotic wagers shall be distributed to the state as a license fee, 2 percent shall be retained by the satellite wagering facility as a commission, 2.5 percent or the amount of actual operating expenses, as determined by the board, whichever is less, shall be distributed to an organization described in subdivision (c) of Section 19596.4, and 0.40 of 1 percent shall be distributed to the breeders in the form of breeders' awards, and one-tenth of 1 percent of the amount wagered at the satellite wagering facility shall be distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that these one-tenth of 1 percent funds to the Equine Research Laboratory shall supplement and not supplant other funding sources.

(2) On harness, quarter horse, Appaloosa, mixed breed, or fair meetings, 1.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 3.0 percent on exotic wagers shall be distributed to the state as a license fee, 2 percent shall be retained by the satellite wagering facility as a commission, and 6 percent or the amount of actual operating expenses, as determined by the board, whichever is less, shall be distributed to an organization described in subdivision (c) of Section 19596.4, and one-tenth of 1 percent of the amount wagered at the satellite wagering facility shall be distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that these one-tenth of 1 percent funds to the Equine Research Laboratory shall supplement and not supplant other funding sources.

(3) In addition, on thoroughbred meetings and harness, quarter horse, Appaloosa, mixed breed, or fair meetings, 1 percent shall be distributed to an organization described in subdivision (c) of Section 19596.4 for promotion of the program and 0.33 of 1 percent of the total amount handled by the satellite wagering facility shall be paid to the city or county in which the satellite wagering facility is located pursuant to Section 19610.3 or 19610.4.

(e) On thoroughbred meetings only, the funds remaining after distribution of the amounts in subdivision (d) shall be distributed 50 percent as commissions to the racing association which conducts the

racing meeting and 50 percent as purses to the horsemen participating in the racing meeting, except that owners' premiums shall be paid from the amount distributed for purses in the same relative percentage as owners' premiums are paid at the racing meeting. All of the funds distributed for purses from satellite wagering facilities shall go to the purse program of the association conducting the racing meeting except that all sums for distribution as purses at satellite wagering facilities which are racing fairs in the County of Los Angeles shall be deposited in a separate account in the fund and, notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated to the Department of Food and Agriculture for supplementing purses at fair meetings in Los Angeles and Orange Counties. The department shall distribute these funds on an equal basis to each racing fair in these counties for distribution in all nonstakes races and among all breeds.

(f) On harness, quarter horse, Appaloosa, mixed breed, and fair meetings, the funds remaining after distribution of the amounts set forth in subdivision (d) shall be distributed 50 percent as commissions to the racing association which conducts the racing meeting and 50 percent to the horsemen in the form of purses participating in the racing meeting.

(g) Notwithstanding subdivision (e), when satellite wagering is conducted on thoroughbred meetings, an amount, not to exceed 1.25 percent of the total amount handled by all satellite wagering facilities, shall be deducted from the funds otherwise allocated for distribution as commissions, purses, and owners' premiums and instead distributed to an organization formed and operated by thoroughbred racing associations, fairs conducting thoroughbred racing, and the organization representing thoroughbred horsemen, with each party having meaningful representation on the board of the organization, to administer, pursuant to supervision of the board, a fund to provide reimbursement for offsite stabling at board-approved auxiliary training facilities of licensed racing associations for additional stalls beyond the number of usable stalls the association is required to make available and maintain pursuant to Section 19535, and for the vanning of starters from these additional stalls on race days for thoroughbred horses.

(h) The funds distributed to the organization formed pursuant to subdivision (g) shall be used to reimburse racing associations who are operating offsite stabling providing additional stalls for the incremental increase in operating costs directly resulting from providing the stabling. Neither the organization administering the offsite stabling and vanning program nor any of the entities forming and operating the organization, except the entity operating the offsite stabling facility where the injury occurred, shall be liable for any injury to any jockey, exercise person, owner, trainer, or any employee or agent thereof, or any horse occurring at any offsite stabling facility.

The funds shall also reimburse horsemen for the cost of vanning

starting horses from the additional stalls of a board-approved auxiliary training facility operated by a licensed racing association to the track conducting the racing meeting. Horsemen may use carriers of their own choice, except that the amount of reimbursement to horsemen is limited to the amount that the organization determines is generally charged by carriers for vanning from the auxiliary training facility to the track conducting the racing meeting. Neither the organization administering the offsite stabling and vanning program nor any of the entities forming and operating the organization, except the entity actually engaged in vanning horses, shall be liable for any injury occurring to any individual or horse during vanning from an offsite stabling facility.

The training facilities and amenities provided for offsite stabling and training purposes shall be equivalent in character to those provided during racing meetings of the association.

Upon the request of any party within the organization, the board shall adjudicate any dispute regarding costs, or other matters relating to the furnishing of offsite stabling or vanning. The board may, if necessary, appoint an independent auditor to assist in the resolution of disputes. The auditor shall be reimbursed from the funds of the organization.

The organization may maintain a reserve fund of up to 10 percent of the total estimated annual vanning and stabling cost. In addition to the reserve fund, if the funds generated for offsite stabling and vanning are insufficient to fully reimburse racing associations for expenses incurred during the offsite vanning and stabling program, the organization is entitled to accumulate sufficient funds to fully reimburse these expenses.

The amount initially deducted and distributed to the organization shall be 1.25 percent of the total amount handled by satellite wagering facilities authorized under this section on thoroughbred racing, but that allocation may be adjusted by the board, in its discretion, but the adjusted amount may not exceed 1.25 percent of the total amount handled by satellite wagering facilities, to pay expenses and maintain the reserve fund for the continuing support of the program.

(i) Forty-two percent of the revenue payable to the state from license fees from satellite wagering facilities located at fairs under the authority of this section shall be deposited in the Fair and Exposition Fund and, notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated from the fund to the Department of Food and Agriculture, for allocation by the Director of Food and Agriculture, in his or her discretion, for the following purposes:

(1) For repayment of the principal of, and interest on, bonds issued by a joint powers agency, or of other debt service or expense incurred for the purpose of constructing improvements only at a fair racetrack inclosure, for the purpose of construction of satellite wagering facilities at fairs, and for health and safety repair projects

and handicapped access compliance at fairs. Notwithstanding any other law, the department may also commit any funds available for allocation under Article 10 (commencing with Section 19620) to complete projects funded under this paragraph in the priority described in this paragraph.

(2) For repayment of expenses incurred by fairs in establishing and operating satellite wagering facilities.

(3) For health and safety repair projects at the fair.

(4) For support purposes of the fair generally.

(j) The remaining 58 percent of the revenues payable to the state from satellite wagering facilities at fairs and all revenues payable to the state from satellite wagering facilities located under the authority of this section at sites other than fairs shall be deposited in the General Fund.

(k) Notwithstanding subdivision (b) of Section 19641, the state shall receive as additional license fees 50 percent of any redistributable money in a parimutuel pool arising from wagers at a satellite wagering facility, subject to payment to a claimant pursuant to Section 19598, but not successfully claimed within that period, and the funds shall be deposited in the General Fund. The remaining 50 percent of redistributable money in a parimutuel pool arising from wagers at a satellite wagering facility shall be paid to a welfare fund established by the horsemen's organization contracting with the association conducting the racing meeting for the benefit of horsemen, and that organization shall make an accounting to the board within one calendar year of the receipt of the payment.

(*l*) Of the total breakage arising in a parimutuel pool which includes wagers at satellite wagering facilities, that percentage of breakage equal to the percentage that wagers placed at satellite wagering facilities constitute of the total parimutuel pool shall be distributed equally among the state as an additional license fee deposited in the General Fund, the track conducting the racing meeting as a commission, and the horsemen participating in the racing meeting in the form of purses. The remainder of the breakage shall be distributed in the same manner as breakage arising from wagers at the track conducting the racing meeting.

(m) Notwithstanding subdivision (c) of Section 19596.5 and subdivision (d) of this section, if the total revenues from horseracing for deposit in the General Fund for the 1988–89 fiscal year, as determined by the board, do not equal or exceed one hundred fifteen million dollars ($115,000,000), the license fees distributed to the state for all wagers under subdivision (c) of Section 19596.5 and subdivision (d) of this section shall be increased by one-half of 1 percent for meetings commencing after July 1, 1989. The board shall determine if the total revenues from horseracing for deposit in the General Fund during the 1989–90 fiscal year and subsequent fiscal years equal or exceed one hundred fifteen million dollars ($115,000,000), and in fiscal years when that amount is not equaled or exceeded, the license fees distributed to the state for all wagers

under subdivision (c) of Section 19596.5 and subdivision (d) of this section shall be increased by one-half of 1 percent for meetings commencing after July 1 of the following fiscal year.

SEC. 7. Section 19596.7 of the Business and Professions Code is amended to read:

19596.7. In addition to satellite wagering facilities authorized pursuant to Section 19596.5, the board, with the approval of the Department of Food and Agriculture, may authorize any county fair, district agricultural association fair, or citrus fruit fair in the northern zone or in the County of Kern, San Luis Obispo, or Santa Barbara eligible for an allocation of racing days pursuant to Section 19549, to operate a satellite wagering facility at its fairgrounds even though the fair is not licensed to conduct a racing meeting, and the fair may operate the facilities except for those functions to be performed by an organization described in subdivision (c) of Section 19596.4. Except as otherwise provided in this section, all the provisions of Section 19596.5 shall apply to satellite wagering facilities authorized under this section.

This section is repealed on January 1, 1988.

SEC. 7.1. Section 19596.7 is added to the Business and Professions Code, to read:

19596.7. (a) In addition to satellite wagering facilities authorized pursuant to Sections 19596.5 and 19596.6, the board, with the approval of the Department of Food and Agriculture, may authorize any county fair, district agricultural association fair, or citrus fruit fair in the County of Kern or Santa Barbara, eligible for an allocation of racing days pursuant to Section 19549, to operate a satellite wagering facility at its fairgrounds even though the fair is not licensed to conduct a racing meeting, and the fair may operate the facilities except for those functions to be performed by an organization described in subdivision (c) of Section 19596.4. Except as otherwise provided in this section, all the provisions of Section 19596.5 shall apply to satellite wagering facilities authorized pursuant to this section. A satellite wagering facility in the County of Kern or Santa Barbara may receive the audiovisual signal from the northern, central, or southern zone, or from more than one of these zones at the same time.

(b) This section shall become operative on January 1, 1988.

(c) 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.

(d) It is the intent of the Legislature that prior to extending the termination date in subdivision (c), the Legislature shall find that the multisignal authorized by this section is successful.

SEC. 7.2. Section 19596.10 of the Business and Professions Code, as added by Chapter 1285 of the Statutes of 1986, is amended and renumbered to read:

19596.9. Notwithstanding any other provision of law, if there is an overlap in the northern zone between a racing fair, other than the

Fresno or Ferndale fairs, and any other association that races in the daytime, the racing fair has the exclusive right to send its signal to the satellite wagering facilities in the northern zone if the board determines that it is operationally possible for the racing fair to send its signal. However, any association that is not a fair that races in the northern zone may send its signal to a satellite wagering facility located at another association that is not a fair in the northern zone.

SEC. 7.3. Section 19596.14 is added to the Business and Professions Code, to read:

19596.14. A satellite wagering facility, an organization established pursuant to subdivision (c) of Section 19596.4, or any of their subcontractors or entities under contract to perform any of the functions specified in Sections 19596.4, 19596.5, and 19596.6 shall, as a condition of operating, enter into a written contractual agreement with the bona fide labor organization which has historically represented the same or similar classifications of employees at the nearest horseracing meeting. Permanent state or county employees and nonprofit organizations who have historically performed certain services at county, state, or agricultural district fairs may continue to provide those services notwithstanding this section.

SEC. 8. Section 19610.5 of the Business and Professions Code is amended to read:

19610.5. In addition to the amounts required to be paid as license fees under any other provision of this chapter, every association, except an association conducting a racing meeting pursuant to Section 19612.6 or 19614, shall pay 1 percent of its exotic parimutuel pools, excluding wagering at a satellite wagering facility, to the state as an additional license fee.

SEC. 9. Section 19612 of the Business and Professions Code is amended to read:

19612. (a) Except as otherwise provided, every association which conducts a quarter horse race meeting shall pay a daily license fee at the following rates based upon its daily conventional and exotic parimutuel handle, excluding wagering at a satellite wagering facility:

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 association subject to this subdivision shall pay an additional license fee at the rate of 0.75 percent of its daily exotic parimutuel handle, excluding wagering at a satellite wagering facility. Except as provided in Section 19610.5, no such association shall pay a license fee in excess of 3.04 percent of the daily conventional parimutuel handle and 3.79 percent of the daily exotic parimutuel handle, excluding wagering at a satellite wagering facility.

(b) With respect to quarter horse meetings, all funds remaining

from the deductions provided in Sections 19491, 19491.5, and 19610 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 Section 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) Except as otherwise provided, every association which conducts a harness horse race meeting shall pay a daily license fee at the following rates based upon its daily conventional and exotic parimutuel handle, excluding wagering at a satellite wagering facility:

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, excluding wagering at a satellite wagering facility. Except as provided in Section 19610.5, no association shall pay a license fee in excess of 3.8 percent of the daily conventional parimutuel handle, excluding wagering at a satellite wagering facility, and 4.55 percent of the daily exotic parimutuel handle, excluding wagering at a satellite wagering facility.

(d) Every harness association or any transferee or successor or subsequent transferee or successor of the business or assets of the association which: (1) conducts its racing meeting at the facilities of a county fair or a district agricultural association or (2) conducted its racing meeting in a single continuous period prior to January 1, 1979, and thereafter conducts a split racing meeting, shall pay a daily license fee based upon its daily conventional and exotic parimutuel handle, excluding wagering at a satellite wagering facility, 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, excluding wagering at a satellite wagering facility. Except as pro-

vided 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, excluding wagering at a satellite wagering facility.

(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, 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 in the northern zone 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. 10. Section 19612.6 of the Business and Professions Code, as amended by Chapter 252 of the Statutes of 1987, is amended to read:

19612.6. (a) Notwithstanding any other provision of this chapter, any association with an average daily handle of six hundred fifty thousand dollars ($650,000) or less which conducts a racing meeting pursuant to Section 19534, 19549, 19549.1, 19549.2, 19549.5, 19549.6, 19549.7, or 19701 shall deduct the amounts specified in Section 19610 to be distributed as license fees, commissions, and purses as provided by this section.

(b) Each such association shall pay a daily license fee based on its conventional and exotic parimutuel handle, excluding wagering at a satellite wagering facility, at the following rates:

Daily Handle	License Fee Rate
$300,000 and under	1.0 percent of the handle
$300,001 to $350,000	$3,000 plus 1.5 percent of the handle in excess of $300,000
$350,001 to $400,000	$3,750 plus 2.0 percent of the handle in excess of $350,000
$400,001 to $450,000	$4,750 plus 2.5 percent of the handle in excess of $400,000

$450,001 to $500,000	$6,000 plus 3.0 percent of the handle in excess of $450,000
$500,001 to $550,000	$7,500 plus 3.5 percent of the handle in excess of $500,000
$550,001 or more	$9,250 plus 4.0 percent of the handle in excess of $550,000

(c) For harness and mixed meetings, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed equally between commissions and purses. For quarter horse, Appaloosa, Appaloosa invitational, and muleracing meetings, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen or mulemen participating in the meeting. For fair meetings conducted pursuant to Section 19549, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed 48 percent to commissions and 52 percent to purses.

Every association which conducts a racing meeting pursuant to Section 19549 shall, in addition, deduct from its parimutuel pools the amount specified in subdivision (d) of Section 19614.

(d) If any association qualified to operate its meeting pursuant to the provisions of this section conducts two separate programs of racing on any day, each such program shall be considered a separate racing day for purposes of determining the daily handle and computing the distribution of license fees, commissions, and purses thereon. For the purposes of this subdivision, a program shall consist of at least nine races.

(e) In addition to any deductions pursuant to this section, every association conducting a racing meeting pursuant to Section 19549.1 shall also deduct an additional 1 percent of its parimutuel pools to be distributed as commissions.

(f) In addition to any deductions pursuant to this section, every association conducting a racing meeting pursuant to Section 19549.1 shall also deduct an additional 2 percent of its exotic parimutuel pools to be distributed equally as commissions and purses.

SEC. 11. Section 19614 of the Business and Professions Code is amended to read:

19614. (a) Notwithstanding Sections 19611 and 19612, and except for an association that qualifies pursuant to Section 19612.6 or 19614.1, the California Exposition and State Fair or a district or county fair shall pay a daily license fee based on its conventional and exotic parimutuel handle, excluding wagering at a satellite wagering facility, at the following rates:

Daily Handle	License Fee Rate
$500,000 or less	2.5 percent of the handle.
$500,000 to $1,000,000	$12,500 plus 3.5 percent of the handle in excess of $500,000.
$1,000,000 to $1,500,000	$30,000 plus 3.75 percent of the handle in excess of $1,000,000.
$1,500,000 or more	$48,750 plus 5 percent of the handle in excess of $1,500,000.

No fair racing association shall pay a license fee under this section in excess of 4.5 percent of its daily parimutuel handle, excluding wagering at a satellite wagering facility.

(b) After distribution of the applicable license fees as set forth in subdivision (a), all funds remaining from the deductions provided in Section 19610 shall be distributed 48 percent as commissions and 52 percent as purses.

The amount to be distributed as purses for the current racing meeting shall be based on respective parimutuel pools during the previous corresponding meeting, if any.

Any additional amount generated for purses and not distributed during the previous corresponding meeting shall be added to the purses at the current meeting.

(c) In addition to the amounts deducted pursuant to Section 19610, any fair racing association shall deduct 1 percent from the total amount handled in its daily conventional and exotic parimutuel pools. The additional 1 percent shall be deposited in the Fair and Exposition Fund and is hereby appropriated for the purposes specified in Section 19627.2.

SEC. 12. Section 19614.1 of the Business and Professions Code, as amended by Chapter 26 of the Statutes of 1987, is amended to read:

19614.1. (a) Notwithstanding Sections 19612.6 and 19614, any county fair which conducts racing pursuant to Section 19549.3 shall pay a daily license fee equal to 5.5 percent of its daily conventional parimutuel handle, excluding wagering at a satellite wagering facility, and 6.0 percent of its daily exotic parimutuel handle, excluding wagering at a satellite wagering facility. After distribution of the license fees, all funds remaining from the deductions provided in Section 19610 shall be distributed equally between purses and commissions.

(b) Every association which conducts a racing meeting pursuant to Section 19549.3 shall deduct from its parimutuel pools the amount specified in subdivision (c) of Section 19614.

SEC. 13. Section 19618 of the Business and Professions Code is amended to read:

19618. (a) Except as provided in Section 19596.5 or 19596.6, no person licensed under this chapter to conduct a racing meeting shall pay or distribute to or on behalf of any horse owner, or to any agent, or person or organization representing any horse owner or owners, as purses or any consideration to or for benefit of horsemen, other than that expressly provided in this chapter.

(b) Except as provided in Section 19596.5 or 19596.6, no horse owner, nor any agent or person or organization representing any horse owner or owners, shall receive, solicit, or obtain from any person licensed under this chapter to conduct a race meeting as purses or any consideration to or for benefit of horsemen, other than that expressly provided in this chapter.

(c) No plaque, cup, tray, ribbon, trophy, or similar award given in recognition of achievement or special event is to be deemed to be consideration for the purpose of this section.

(d) This section does not apply to any payment by an association in connection with any match race or special racing event.

SEC. 13.5. Section 19619.6 of the Business and Professions Code is amended to read:

19619.6. Every association or fair which provides a live audiovisual signal of its program to a satellite wagering facility pursuant to Section 19596.4 shall cooperate with the operator of the satellite wagering facility with respect to arrangements with the on-track totalizator company for access to its on-track totalizator system for purposes of combining parimutuel pools.

SEC. 14. Section 19620 of the Business and Professions Code is amended to read:

19620. (a) From the total revenue received by the board, exclusive of money received pursuant to Sections 19640 and 19641, the sum of two hundred sixty-five thousand dollars ($265,000) plus an amount equal to $^{63}/_{100}$ of 1 percent of the gross amount of money handled in the annual parimutuel pool shall be paid into the State Treasury to the credit of the Fair and Exposition Fund.

(b) From the total revenue received by the board, exclusive of money received pursuant to Sections 19640 and 19641, and in addition to the funds paid into the State Treasury to the credit of the Fair and Exposition Fund as specified in subdivision (a), the Legislature shall annually appropriate and the board shall deposit to the credit of the Fair and Exposition Fund such sums as it deems necessary for the following purposes:

(1) For the support of the board, including any costs and expenses incurred by the Attorney General in the enforcement of this chapter as shall be authorized by the board, including, compensation including any fringe benefits, paid to stewards, to the official veterinarian, and for the costs of laboratory testing related to horseracing pursuant to Section 19442.

(2) To the Department of Food and Agriculture for the supervision of all fairs, including citrus fruit fairs and district agricultural associations receiving money from the fund.

(3) To the Department of Food and Agriculture for the contributions, or the cost of benefits in lieu of contributions, payable to the Unemployment Fund by all entities conducting fairs, including county, district, combined county and district, and citrus fruit fairs receiving funds pursuant to this article, as a result of unemployment insurance coverage pursuant to Section 605 of the Unemployment Insurance Code.

(4) To the Department of Finance for the auditing of all fairs, including citrus fruit fairs and district agricultural associations receiving money from the fund.

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that this act may be implemented during the 1987 racing season, it is necessary that this act take effect immediately.

CHAPTER 1274

An act to amend Sections 19549, 19596.5, 19596.6, 19610.4, and 19612.6 of, and to add Section 19596.15 to, the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 19549 of the Business and Professions Code is amended to read:

19549. Except as provided in Section 19549.1, the maximum number of racing days which may be allocated to the California State Fair and Exposition or California State Exposition and Fair or a county or district agricultural association fair or citrus fair shall be 14 days per year. Such racing days shall be days on which general fair activities are conducted. However, any fair racing association which conducted racing in the central or southern zone prior to January 1, 1980, shall be entitled to be allocated up to three weeks of racing.

SEC. 2. Section 19596.5 of the Business and Professions Code, as amended by Senate Bill No. 14, is amended to read:

19596.5. (a) Notwithstanding any other provision of law, the board may authorize an association licensed to conduct a racing meeting in the northern zone to operate a satellite wagering facility for wagering on races conducted in the northern zone at its racetrack inclosure, except during the part of the day racing is being conducted at its racetrack, and may, with the approval of the Department of Food and Agriculture, authorize any county fair, district agricultural

association fair, or citrus fruit fair in the northern zone eligible for an allocation of racing days pursuant to Section 19549, but which is not licensed to conduct a racing meeting or authorized pursuant to Section 19596.7, to locate a satellite wagering facility at its fairgrounds for wagering on races conducted in the northern zone, if all of the following conditions are met:

(1) An organization described in subdivision (c) of Section 19596.4 has executed agreements, which are approved by the board, with the association conducting a racing meeting in the northern zone and the satellite wagering facility. The agreement shall provide, among other things, the conditions for transmission of the signal and that the wagers made at the satellite wagering facility will be included in the appropriate conventional or exotic pool at the racetrack where the racing meeting is conducted. Notwithstanding any other provision of law or any agreement under this subdivision, for purposes of determining license fees and breakage at the racetrack where the racing meeting is conducted, wagers at a satellite facility shall not be included in the conventional or exotic pools of the association conducting the racing meeting.

(2) The horsemen's organization which represents the horsemen at the association which conducts the racing meeting on which wagers are accepted consents to the acceptance of wagers at the satellite wagering facility, except that the association or fair operating the satellite wagering facility may appeal the withholding of consent to the board which may determine that consent is not required.

(3) The accommodations and equipment used in conducting wagering at the satellite wagering facility and their location have been approved by the board.

(4) The method used by the satellite wagering facility to transmit wagers, odds, results, and other data related to wagering has been approved by the board.

(5) Except as provided in Section 19596.9, any association or fair which conducts satellite wagering shall conduct wagering on all racing offered to the satellite wagering facility, as long as the satellite wagering facility is not sustaining a loss on either a day meeting or night meeting, as determined by the board, and, if sustaining a loss on either a day meeting or night meeting, as long as that loss is reimbursed by either an organization described in subdivision (c) of Section 19596.4 or an association.

In calculating the loss, if any, for operating a satellite wagering facility for a night meeting, only the expenses incurred by the satellite wagering facility because of acceptance of night wagers shall be considered, and no overhead expenses or expenses which would be incurred regardless of the acceptance of night wagers shall be considered.

(b) Notwithstanding subdivision (a), during periods of the day when there is no night racing in the northern zone, the live audiovisual signal of night harness or quarter horse races in the

central or southern zone may be offered to satellite wagering facilities in the northern zone, provided, however, (1) that racing associations may accept that audiovisual signal, but are not required to do so and (2) that satellite wagering facilities located at fairs are not required to accept more than five night racing programs per week.

(c) The total percentage deducted from wagers at satellite wagering facilities shall be the same as the deductions for wagers at the racetrack where the racing meeting is being conducted and shall be distributed as set forth in this section. Amounts deducted under this section shall be distributed as follows:

(1) On thoroughbred meetings only, 2.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 4.0 percent on exotic wagers shall be distributed to the state as a license fee, 2 percent shall be retained by the satellite wagering facility as a commission, 2.5 percent or the amount of actual operating expenses, as determined by the board, whichever is less, shall be distributed to an organization described in subdivision (c) of Section 19596.4, and 0.4 of 1 percent shall be distributed to the breeders in the form of breeders' awards, and one-tenth of 1 percent of the amount wagered at the satellite wagering facility shall be distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that these one-tenth of 1 percent funds to the Equine Research Laboratory shall supplement and not supplant other funding sources.

(2) On harness, quarter horse, Appaloosa, mixed breed, or fair meetings, 1.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 3.0 percent on exotic wagers shall be distributed to the state as a license fee, 2 percent shall be retained by the satellite wagering facility as a commission, 6 percent or the amount of actual operating expenses, as determined by the board, whichever is less, shall be distributed to an organization described in subdivision (c) of Section 19596.4, and, in the case of quarter horses and Appaloosas, 0.4 of 1 percent shall be distributed as breeders awards to breeders of quarter horses and Appaloosas and, in the case of standardbreds, 0.4 of 1 percent shall be distributed for the California Standardbred Sires Stallion Program pursuant to Section 19619, and one-tenth of 1 percent of the amount wagered at the satellite wagering facility shall be distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that these one-tenth of 1 percent funds to the Equine Research Laboratory shall supplement and not supplant other funding sources.

(3) In addition to the distributions in paragraph (1) or (2), on thoroughbred meetings and harness, quarter horse, Appaloosa, mixed breed, or fair meetings, 1 percent of the total amount handled by the satellite wagering facility shall be distributed to an organization described in subdivision (c) of Section 19596.4 for

promotion of the program at satellite wagering facilities and 0.33 of 1 percent of the total amount handled by the satellite wagering facility shall be paid to the city or county in which the satellite wagering facility is located pursuant to Section 19610.3 or 19610.4.

(d) On thoroughbred meetings only, the funds remaining after distribution of the amounts set forth in subdivision (c) shall be distributed 50 percent as commissions to the racing association which conducts the racing meeting and 50 percent as purses to the horsemen participating in the racing meeting, except that owners' premiums shall be paid from the amount distributed for purses in the same relative percentage as owners' premiums are paid at the racing meeting. Of the amount deducted for purses at the association conducting the racing meeting, 10 percent shall be distributed in the form of purses to horsemen who participate in racing fairs that operate satellite wagering facilities. The 10 percent of the purses for horsemen who participate in racing fairs shall be deposited in a separate account in the fund and, notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated to the Department of Food and Agriculture for supplementing purses at fair meetings to achieve the purposes of subdivision (i).

(e) On harness, quarter horse, Appaloosa, mixed breed, and fair meetings, the funds remaining after distribution of the amounts set forth in subdivision (c) shall be distributed 50 percent as commissions to the racing association which conducts the racing meeting and 50 percent to the horsemen in the form of purses at the association conducting the racing meeting.

(f) Except as provided in subdivisions (g) and (h), all revenues payable to the state as license fees from satellite wagering facilities located at fairs shall be deposited in a separate account in the fund and, notwithstanding Section 13340 of the Government Code, are hereby continuously appropriated from that account to the Department of Food and Agriculture, for allocation by the Director of Food and Agriculture in his or her discretion, for the following purposes:

(1) For repayment of the principal of, and interest on, bonds issued by a joint powers agency, or of other debt service or expense incurred, for the purpose of constructing improvements only at a fair's racetrack inclosure, for the purpose of construction of satellite wagering facilities at fairs, and for health and safety repair projects and handicapped access compliance at fairs. Notwithstanding any other law, the department may also commit any funds available for allocation under Article 10 (commencing with Section 19620) to complete projects funded under this paragraph in the priority described in this paragraph.

(2) For repayment of expenses incurred by fairs in establishing and operating satellite wagering facilities.

(3) For health and safety repair projects at fairs.

(4) For support purposes of fairs generally.

(g) Seven and one-half percent of all revenues payable to the state

as license fees from satellite wagering facilities located at fairs shall be deposited in the General Fund.

(h) Up to 10 percent of all revenues payable to the state as license fees from satellite wagering facilities located at fairs shall be deposited in a special account in the fund and, notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated to the Department of Food and Agriculture for supplementing purses at fair meetings to achieve the purposes of subdivision (i). The department shall annually determine the percentage of revenues payable to the special account under this subdivision based on the amount necessary to achieve the purposes of subdivision (i).

(i) It is the intent of the Legislature that funds allocated pursuant to subdivision (h) be used primarily at fair racing meetings in the northern zone with a daily average handle of more than three hundred thousand dollars ($300,000). The Legislature further finds that its intent is that these allocations be used to bring the purses at these fairs, exclusive of purses for stakes races and special events, to a level of at least 80 percent of purses for similar classes of horses at private racing associations in the northern zone. The funds shall be used among all breeds. For fair racing meetings in the northern zone with a daily average handle of three hundred thousand dollars ($300,000) or less, it is the intent of the Legislature to bring the purses to a level of at least 25 percent of purses for similar classes of horses at private racing associations in the northern zone.

SEC. 3. Section 19596.6 of the Business and Professions Code, as added by Senate Bill No. 14, is amended to read:

19596.6. (a) Notwithstanding any other provision of law, subject to the conditions and limitations set forth in this section and Section 19596.7, the following entities in the central or southern zone are eligible to be licensed to operate a satellite wagering facility for wagering on races conducted in the central or southern zone:

(1) Any county fair, district agricultural association fair, or citrus fruit fair which conducted general fair activities in 1986 within the central or southern zone, and which is eligible for an allocation of racing days pursuant to Section 19549, but which is not licensed to conduct a racing meeting, may locate a satellite wagering facility at its fairgrounds.

(2) Any association licensed to conduct a racing meeting in the central or southern zone.

(b) The board may authorize an eligible association or, with the approval of the Department of Food and Agriculture, an eligible fair, to operate a satellite wagering facility under all of the following conditions:

(1) A racing association licensed to conduct a racing meeting shall conduct satellite wagering only within its racing inclosure.

(2) An organization described in subdivision (c) of Section 19596.4 has executed an agreement approved by the board with the association conducting a racing meeting and the satellite wagering

facility. The agreement shall provide, among other things, the conditions for transmission of the signal and that the wagers made at the satellite wagering facility are included in the appropriate conventional or exotic pool at the racetrack where the racing meeting is conducted.

(3) The accommodations and equipment used in conducting wagering at the satellite wagering facility and their location have been approved by the board.

(4) The method used by the satellite wagering facility to transmit wagers, odds, results, and other data related to wagering have been approved by the board.

(5) Any association or fair that operates a satellite wagering facility shall conduct wagering on all racing conducted in the central or southern zone that is offered to that satellite wagering facility, as long as the satellite wagering facility is not sustaining a loss on either a day meeting or a night meeting, as determined by the board, and, if sustaining a loss on either a day meeting or a night meeting, as long as that loss is not reimbursed by either an organization described in subdivision (c) of Section 19596.4 or an association.

In calculating the loss, if any, for operating a satellite wagering facility for a night meeting, only the expenses incurred by the satellite wagering facility because of acceptance of night wagers shall be considered, and no overhead expenses or expenses of the satellite wagering facility which would be incurred regardless of the acceptance of night wagers shall be considered.

(c) Notwithstanding subdivision (a), a satellite wagering facility may not be located within the County of Los Angeles or within the County of Orange, except as follows:

(1) If all other conditions in subdivision (b) are met, the Fiftieth District Agricultural Association may be authorized to operate a satellite wagering facility upon its fairgrounds in the City of Lancaster and to accept wagers on races conducted in the southern and central zones.

(2) If all other conditions are met, any fair or association licensed to conduct racing meetings in the County of Los Angeles and any racing association other than a fair which is licensed to conduct racing in the County of Orange may be authorized to operate a satellite wagering facility for the limited purpose of conducting satellite wagering on races conducted at the Twenty-Second District Agricultural Association fairgrounds at Del Mar in the County of San Diego, except that, when a fair in Orange County is licensed for a racing meeting, a satellite wagering facility located within the racing inclosure where the racing meeting is conducted may not operate on the days that racing is conducted.

(d) The total percentage deducted from wagers at satellite wagering facilities shall be the same as the percentage deducted from wagers at the racetrack where the racing meeting is being conducted and shall be distributed as set forth in this section. Amounts deducted by a satellite wagering facility under this section

shall be distributed as follows:

(1) On thoroughbred meetings only, 2.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 4.0 percent on exotic wagers shall be distributed to the state as a license fee, 2 percent shall be retained by the satellite wagering facility as a commission, 2.5 percent or the amount of actual operating expenses, as determined by the board, whichever is less, shall be distributed to an organization described in subdivision (c) of Section 19596.4, and 0.40 of 1 percent shall be distributed to the breeders in the form of breeders' awards, and one-tenth of 1 percent of the amount wagered at the satellite wagering facility shall be distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that these one-tenth of 1 percent funds to the Equine Research Laboratory shall supplement and not supplant other funding sources.

(2) On harness, quarter horse, Appaloosa, mixed breed, or fair meetings, 1.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 3.0 percent on exotic wagers shall be distributed to the state as a license fee, 2 percent shall be retained by the satellite wagering facility as a commission, and 6 percent or the amount of actual operating expenses, as determined by the board, whichever is less, shall be distributed to an organization described in subdivision (c) of Section 19596.4, and one-tenth of 1 percent of the amount wagered at the satellite wagering facility shall be distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that these one-tenth of 1 percent funds to the Equine Research Laboratory shall supplement and not supplant other funding sources.

(3) In addition, on thoroughbred meetings and harness, quarter horse, Appaloosa, mixed breed, or fair meetings, 1 percent shall be distributed to an organization described in subdivision (c) of Section 19596.4 for promotion of the program at satellite wagering facilities and 0.33 of 1 percent of the total amount handled by the satellite wagering facility shall be paid to the city or county in which the satellite wagering facility is located pursuant to Section 19610.3 or 19610.4.

(e) On thoroughbred meetings only, the funds remaining after distribution of the amounts in subdivision (d) shall be distributed 50 percent as commissions to the racing association which conducts the racing meeting and 50 percent as purses to the horsemen participating in the racing meeting, except that owners' premiums shall be paid from the amount distributed for purses in the same relative percentage as owners' premiums are paid at the racing meeting. All of the funds distributed for purses from satellite wagering facilities shall go to the purse program of the association conducting the racing meeting except that all sums for distribution as purses at satellite wagering facilities which are racing fairs in the

County of Los Angeles shall be deposited in a separate account in the fund and, notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated to the Department of Food and Agriculture for supplementing purses at fair meetings in Los Angeles and Orange Counties. The department shall distribute these funds on an equal basis to each racing fair in these counties for distribution in all nonstakes races and among all breeds.

(f) On harness, quarter horse, Appaloosa, mixed breed, and fair meetings, the funds remaining after distribution of the amounts set forth in subdivision (d) shall be distributed 50 percent as commissions to the racing association which conducts the racing meeting and 50 percent to the horsemen in the form of purses participating in the racing meeting.

(g) Notwithstanding subdivision (e), when satellite wagering is conducted on thoroughbred meetings, an amount, not to exceed 1.25 percent of the total amount handled by all satellite wagering facilities, shall be deducted from the funds otherwise allocated for distribution as commissions, purses, and owners' premiums and instead distributed to an organization formed and operated by thoroughbred racing associations, fairs conducting thoroughbred racing, and the organization representing thoroughbred horsemen, with each party having meaningful representation on the board of the organization, to administer, pursuant to supervision of the board, a fund to provide reimbursement for offsite stabling at board-approved auxiliary training facilities of licensed racing associations for additional stalls beyond the number of usable stalls the association is required to make available and maintain pursuant to Section 19535, and for the vanning of starters from these additional stalls on race days for thoroughbred horses.

(h) The funds distributed to the organization formed pursuant to subdivision (g) shall be used to reimburse racing associations who are operating offsite stabling providing additional stalls for the incremental increase in operating costs directly resulting from providing the stabling. Neither the organization administering the offsite stabling and vanning program nor any of the entities forming and operating the organization, except the entity operating the offsite stabling facility where the injury occurred, shall be liable for any injury to any jockey, exercise person, owner, trainer, or any employee or agent thereof, or any horse occurring at any offsite stabling facility.

The funds shall also reimburse horsemen for the cost of vanning starting horses from a board-approved auxiliary training facility operated by a licensed racing association to the track conducting the racing meeting. Horsemen may use carriers of their own choice, except that the amount of reimbursement to horsemen is limited to the amount that the organization determines is generally charged by carriers for vanning from the auxiliary training facility to the track conducting the racing meeting. Neither the organization administering the offsite stabling and vanning program nor any of

the entities forming and operating the organization, except the entity actually engaged in vanning horses, shall be liable for any injury occurring to any individual or horse during vanning from an offsite stabling facility.

The training facilities and amenities provided for offsite stabling and training purposes shall be equivalent in character to those provided during racing meetings of the association.

Upon the request of any party within the organization, the board shall adjudicate any dispute regarding costs, or other matters relating to the furnishing of offsite stabling or vanning. The board may, if necessary, appoint an independent auditor to assist in the resolution of disputes. The auditor shall be reimbursed from the funds of the organization.

The organization may maintain a reserve fund of up to 10 percent of the total estimated annual vanning and stabling cost. In addition to the reserve fund, if the funds generated for offsite stabling and vanning are insufficient to fully reimburse racing associations for expenses incurred during the offsite vanning and stabling program, the organization is entitled to accumulate sufficient funds to fully reimburse these expenses.

The amount initially deducted and distributed to the organization shall be 1.25 percent of the total amount handled by satellite wagering facilities authorized under this section on thoroughbred racing, but that allocation may be adjusted by the board, in its discretion, but the adjusted amount may not exceed 1.25 of the total amount handled by satellite wagering facilities, to pay expenses and maintain the reserve fund for the continuing support of the program.

(i) Forty-two percent of the revenue payable to the state from license fees from satellite wagering facilities located at fairs under the authority of this section shall be deposited in a separate account in the fund and, notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated from that account to the Department of Food and Agriculture, for allocation by the Director of Food and Agriculture, in his or her discretion, for the following purposes:

(1) For repayment of the principal of, and interest on, bonds issued by a joint powers agency, or of other debt service or expense incurred for the purpose of constructing improvements only at a fair's racetrack inclosure, or for the purpose of construction of satellite wagering facilities at fairs, and for health and safety repair projects and handicapped access compliance at fairs. Notwithstanding any other law, the department may also commit any funds available for allocation under Article 10 (commencing with Section 19620) to complete projects funded under this paragraph in the priority described in this paragraph.

(2) For repayment of expenses incurred by fairs in establishing and operating satellite wagering facilities.

(3) For health and safety repair projects at the fair.

(4) For support purposes of the fair generally.

(j) The remaining 58 percent of the revenues payable to the state from satellite wagering facilities at fairs and all revenues payable to the state from satellite wagering facilities located under the authority of this section at sites other than fairs shall be deposited in the General Fund.

(k) Notwithstanding subdivision (b) of Section 19641, the state shall receive as additional license fees 50 percent of any redistributable money in a parimutuel pool arising from wagers at a satellite wagering facility, subject to payment to a claimant pursuant to Section 19598, but not successfully claimed within that period, and the funds shall be deposited in the General Fund. The remaining 50 percent of redistributable money in a parimutuel pool arising from wagers at a satellite wagering facility shall be paid to a welfare fund established by the horsemen's organization contracting with the association conducting the racing meeting for the benefit of horsemen, and that organization shall make an accounting to the board within one calendar year of the receipt of the payment.

(*l*) Of the total breakage arising in a parimutuel pool which includes wagers at satellite wagering facilities, that percentage of breakage equal to the percentage that wagers placed at satellite wagering facilities constitute of the total parimutuel pool shall be distributed equally among the state as an additional license fee deposited in the General Fund, the track conducting the racing meeting as a commission, and the horsemen participating in the racing meeting in the form of purses. The remainder of the breakage shall be distributed in the same manner as breakage arising from wagers at the track conducting the racing meeting.

(m) Notwithstanding subdivision (c) of Section 19596.5 and subdivision (d) of this section, if the total revenues from horseracing for deposit in the General Fund for the 1988–89 fiscal year, as determined by the board, do not equal or exceed one hundred fifteen million dollars ($115,000,000), the license fees distributed to the state for all wagers under subdivision (c) of Section 19596.5 and subdivision (d) of this section shall be increased by one-half of 1 percent for meetings commencing after July 1, 1989. The board shall determine if the total revenues from horseracing for deposit in the General Fund during the 1989–90 fiscal year and subsequent fiscal years equal or exceed one hundred fifteen million dollars ($115,000,000), and in fiscal years when that amount is not equaled or exceeded, the license fees distributed to the state for all wagers under subdivision (c) of Section 19596.5 and subdivision (d) of this section shall be increased by one-half of 1 percent for meetings commencing after July 1 of the following fiscal year.

SEC. 4. Section 19596.15 is added to the Business and Professions Code, to read:

19596.15. (a) All revenues payable to the state and deposited in a separate account in the fund pursuant to subdivision (f) of Section 19596.5 and subdivision (i) of Section 19596.6 that are allocated by the Director of Food and Agriculture for the purposes of paragraph (1)

of subdivision (f) of Section 19596.5 and paragraph (1) of subdivision (i) of Section 19596.6 are hereby pledged for repayment of the principal of, and interest on, bonds issued by a joint powers agency, or of other debt service or expense incurred for the purposes described in paragraph (1) of subdivision (f) of Section 19596.5 and paragraph (1) of subdivision (i) of Section 19596.6.

(b) Any joint powers agency or agencies requesting moneys in connection with the issuance of bonds for the purposes described in paragraph (1) of subdivision (f) of Section 19596.5 and paragraph (1) of subdivision (i) of Section 19596.6 shall file an application with the Director of Food and Agriculture in the form as the director may require. The director shall, upon review of the applications, prepare a statement of allocation of moneys to the joint powers agency or agencies, in the priority the director deems appropriate. The director shall promulgate regulations governing the allocation procedures to be followed in implementing these provisions.

(c) It is the intent of the Legislature in enacting the provisions contained in this section to provide the revenues necessary for the financing by joint powers agencies of the described facilities and projects. Deposits into the account in the fund in accordance with Sections 19596.5 and 19596.6 and this section shall continue through and including either the 20th year after the initial calendar year in which the revenues are collected, or whatever period of time is necessary to repay any borrowings of joint powers funding mechanism, including, but not limited to, retirement of bonded indebtedness, loan repayments, and monthly payments involving lease-purchase programs made by a joint powers agency to finance described facilities and projects, whichever time is longer.

(d) The State of California does hereby pledge to and agree with the holders of any bonds issued, and with those joint powers agencies which may enter into project agreements in reliance on the allocations set forth in subdivision (f) of Section 19596.5 and subdivision (i) of Section 19596.6, that the state will not alter or change the structure, or pledge of funds pursuant to those sections until the bonds are fully paid or discharged and the project is fully performed or discharged, on the part of joint powers agencies; provided, however, that nothing precludes any alteration or change, if, and when, adequate provision has been made by law for the protection from impairment of the contracts represented by the bonds and projects, and the right to so alter or change is hereby reserved. Joint powers agencies are authorized to include this pledge and undertaking of the state in the bonds and project agreements.

SEC. 5. Section 19610.4 of the Business and Professions Code, as amended by Chapter 26 of the Statutes of 1987, is amended to read:

19610.4. Notwithstanding Section 19610.3, any association which conducts a racing meeting pursuant to Section 19549.3 or 19549.9, or any fair which operates a satellite wagering facility, may elect to deduct an additional amount of 0.33 of 1 percent from the total parimutuel wagers placed within its inclosure or at its satellite

wagering facility.

The amounts deducted pursuant to this section shall be distributed to the city or county in which the racing meeting or wagering is conducted, at the option of the association or fair. If a city or county has elected by ordinance to receive a distribution from a racing association or fair under this section, it shall not at any time thereafter assess or collect, with respect to an event conducted by that racing association or fair, any license or excise tax or fee, including, but not limited to, any admission, parking, or business tax, or any tax or fee levied solely upon the racing association or fair conducting a racing meeting or satellite wagering or any patron thereof. Furthermore, a city or county electing to receive a distribution under this section shall provide ordinary and traditional municipal services, such as police services and traffic control, in connection with the racing meetings or satellite wagering. If an eligible city or county does not elect to receive a distribution under this section, the amount deducted shall be paid to the state as an additional license fee.

SEC. 6. Section 19612.6 of the Business and Professions Code, as amended by Senate Bill No. 14, is amended to read:

19612.6. (a) Notwithstanding any other provision of this chapter, any association with an average daily handle of six hundred fifty thousand dollars ($650,000) or less which conducts a racing meeting pursuant to Section 19534, 19549, 19549.1, 19549.2, 19549.5, 19549.6, 19549.7, or 19701 shall deduct the amounts specified in Section 19610 to be distributed as license fees, commissions, and purses as provided by this section.

(b) Each such association shall pay a daily license fee based on its conventional and exotic parimutuel handle, excluding wagering at a satellite wagering facility, at the following rates:

Daily Handle	License Fee Rate
$300,000 and under	1.0 percent of the handle
$300,001 to $350,000	$3,000 plus 1.5 percent of the handle in excess of $300,000
$350,001 to $400,000	$3,750 plus 2.0 percent of the handle in excess of $350,000
$400,001 to $450,000	$4,750 plus 2.5 percent of the handle in excess of $400,000
$450,001 to $500,000	$6,000 plus 3.0 percent of the handle in excess of $450,000
$500,001 to $550,000	$7,500 plus 3.5 percent of the handle in excess of $500,000
$550,001 or more	$9,250 plus 4.0 percent of the handle in excess of $550,000

(c) For harness and mixed meetings, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed equally between commissions and purses. For quarter

horse, Appaloosa, Appaloosa invitational, and muleracing meetings, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen or mulemen participating in the meeting. For fair meetings conducted pursuant to Section 19549, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed 48 percent to commissions and 52 percent to purses.

Every association which conducts a racing meeting pursuant to Section 19549 shall, in addition, deduct from its parimutuel pools the amount specified in subdivision (c) of Section 19614.

(d) If any association qualified to operate its meeting pursuant to the provisions of this section conducts two separate programs of racing on any day, each such program shall be considered a separate racing day for purposes of determining the daily handle and computing the distribution of license fees, commissions, and purses thereon. For the purposes of this subdivision, a program shall consist of at least nine races.

(e) In addition to any deductions pursuant to this section, every association conducting a racing meeting pursuant to Section 19549.1 shall also deduct an additional 1 percent of its parimutuel pools to be distributed as commissions.

(f) In addition to any deductions pursuant to this section, every association conducting a racing meeting pursuant to Section 19549.1 shall also deduct an additional 2 percent of its exotic parimutuel pools to be distributed equally as commissions and purses.

SEC. 7. This act shall become operative only if Senate Bill 14 is enacted and takes effect on or before January 1, 1988.

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 the changes proposed by this act may become effective at the earliest opportunity, it is necessary that this act take effect immediately.

CHAPTER 1275

An act to amend Section 19612.6 of, and to add Section 19549.4 to, the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987.]

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

SECTION 1. Section 19549.4 is added to the Business and Professions Code, to read:

19549.4. Notwithstanding Section 19414.5, the board may allocate racing weeks consisting of fewer than five days to an association conducting a meeting pursuant to Section 19549.2 if the association and the organization representing the horsemen participating in the meeting agree to the allocation.

SEC. 2. Section 19612.6 of the Business and Professions Code is amended to read:

19612.6. (a) Notwithstanding any other provision of this chapter, any association with an average daily handle of six hundred fifty thousand dollars ($650,000) or less which conducts a racing meeting pursuant to Section 19534, 19549, 19549.1, 19549.5, 19549.6, 19549.7, or 19701 shall deduct the amounts specified in Section 19610 to be distributed as license fees, commissions, and purses as provided by this section.

(b) Each association deducting amounts pursuant to subdivision (a) shall pay a daily license fee based on its conventional and exotic parimutuel handle at the following rates:

Daily handle	License fee rate
$300,000 and under	1.0 percent of the handle
$300,001 to $350,000	$3,000 plus 1.5 percent of the handle in excess of $300,000
$350,001 to $400,000	$3,750 plus 2.0 percent of the handle in excess of $350,000
$400,001 to $450,000	$4,750 plus 2.5 percent of the handle in excess of $400,000
$450,001 to $500,000	$6,000 plus 3.0 percent of the handle in excess of $450,000
$500,001 to $550,000	$7,500 plus 3.5 percent of the handle in excess of $500,000
$550,001 or more	$9,250 plus 4.0 percent of the handle in excess of $550,000

(c) (1) For harness and mixed meetings the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed equally between commissions and purses. For

quarter horse and muleracing meetings, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen or mulemen participating in the meeting. For fair meetings conducted pursuant to Section 19549, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed 48 percent to commissions and 52 percent to purses.

(2) Every association which conducts a racing meeting pursuant to Section 19549 shall, in addition, deduct from its parimutuel pools the amount specified in subdivision (d) of Section 19614.

(d) If an association qualified to operate its meeting pursuant to this section conducts two separate programs of racing on any day, each such program shall be considered a separate racing day for purposes of determining the daily handle and computing the distribution of license fees, commissions, and purses thereon. For the purposes of this subdivision, a program shall consist of at least nine races.

(e) In addition to any deductions pursuant to this section, every association conducting a racing meeting pursuant to Section 19549.1 shall also deduct an additional 1 percent of its parimutuel pools to be distributed as commissions.

(f) In addition to any deductions pursuant to this section, every association conducting a racing meeting pursuant to Section 19549.1 shall also deduct an additional 2 percent of its exotic parimutuel pools to be distributed equally as commissions and purses.

(g) (1) Notwithstanding any other provision of this chapter, any association with an average daily handle of six hundred fifty thousand dollars ($650,000) or less conducting a meeting pursuant to Section 19549.2 shall deduct the amounts specified in Section 19610 to be distributed as license fees, commissions, and purses as provided by this subdivision. The association shall pay a daily license fee based on its conventional and exotic parimutuel handle at the following rates:

Daily handle	License fee rate
$300,000 and under	0.5 percent of the handle
$300,001 to $350,000	$1,500 plus 1.0 percent of the handle in excess of $300,000
$350,001 to $400,000	$2,000 plus 1.5 percent of the handle in excess of $350,000
$400,001 to $450,000	$2,750 plus 2.0 percent of the handle in excess of $400,000
$450,001 to $500,000	$3,750 plus 2.5 percent of the handle in excess of $450,000
$500,001 to $550,000	$5,000 plus 3.0 percent of the handle in excess of $500,000
$550,001 or more	$6,500 plus 3.5 percent of the handle in excess of $550,000

(2) The amount remaining after payment of the state license fee pursuant to this subdivision shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen participating in the meeting.

SEC. 3. Section 19612.6 of the Business and Professions Code is amended to read:

19612.6. (a) Notwithstanding any other provision of this chapter, any association with an average daily handle of six hundred fifty thousand dollars ($650,000) or less which conducts a racing meeting pursuant to Section 19534, 19549, 19549.1, 19549.5, 19549.6, 19549.7, or 19701 shall deduct the amounts specified in Section 19610 to be distributed as license fees, commissions, and purses as provided by this section.

(b) Each association deducting amounts pursuant to subdivision (a) shall pay a daily license fee based on its conventional and exotic parimutuel handle, excluding wagering at a satellite wagering facility, at the following rates:

Daily handle	License fee rate
$300,000 and under	1.0 percent of the handle
$300,001 to $350,000	$3,000 plus 1.5 percent of the handle in excess of $300,000
$350,001 to $400,000	$3,750 plus 2.0 percent of the handle in excess of $350,000
$400,001 to $450,000	$4,750 plus 2.5 percent of the handle in excess of $400,000
$450,001 to $500,000	$6,000 plus 3.0 percent of the handle in excess of $450,000
$500,001 to $550,000	$7,500 plus 3.5 percent of the handle in excess of $500,000
$550,001 or more	$9,250 plus 4.0 percent of the handle in excess of $550,000

(c) (1) For harness and mixed meetings, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed equally between commissions and purses. For quarter horse, Appaloosa, Appaloosa invitational, and muleracing meetings, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen or mulemen participating in the meeting. For fair meetings conducted pursuant to Section 19549, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed 48 percent to commissions and 52 percent to purses.

(2) Every association which conducts a racing meeting pursuant to Section 19549 shall, in addition, deduct from its parimutuel pools the amount specified in subdivision (d) of Section 19614.

(d) If an association qualified to operate its meeting pursuant to this section conducts two separate programs of racing on any day, each such program shall be considered a separate racing day for purposes of determining the daily handle and computing the distribution of license fees, commissions, and purses thereon. For the purposes of this subdivision, a program shall consist of at least nine races.

(e) In addition to any deductions pursuant to this section, every association conducting a racing meeting pursuant to Section 19549.1 shall also deduct an additional 1 percent of its parimutuel pools to be distributed as commissions.

(f) In addition to any deductions pursuant to this section, every association conducting a racing meeting pursuant to Section 19549.1 shall also deduct an additional 2 percent of its exotic parimutuel pools to be distributed equally as commissions and purses.

(g) (1) Notwithstanding any other provision of this chapter, any association with an average daily handle of six hundred fifty thousand dollars ($650,000) or less conducting a meeting pursuant to Section 19549.2 shall deduct the amounts specified in Section 19610 to be distributed as license fees, commissions, and purses as provided by this subdivision. The association shall pay a daily license fee based on its conventional and exotic parimutuel handle at the following rates:

Daily handle	License fee rate
$300,000 and under	0.5 percent of the handle
$300,001 to $350,000	$1,500 plus 1.0 percent of the handle in excess of $300,000
$350,001 to $400,000	$2,000 plus 1.5 percent of the handle in excess of $350,000
$400,001 to $450,000	$2,750 plus 2.0 percent of the handle in excess of $400,000
$450,001 to $500,000	$3,750 plus 2.5 percent of the handle in excess of $450,000
$500,001 to $550,000	$5,000 plus 3.0 percent of the handle in excess of $500,000
$550,001 or more	$6,500 plus 3.5 percent of the handle in excess of $550,000

(2) The amount remaining after payment of the state license fee pursuant to this subdivision shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen participating in the meeting.

SEC. 4. Section 3 of this bill incorporates amendments to Section 19612.6 of the Business and Professions Code proposed by both this bill and SB 14. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1988, (2) each bill amends Section 19612.6 of the Business and Professions Code, and (3) this bill is enacted after SB 14, in which case Section 19612.6 of

the Business and Professions Code, as amended by SB 14, 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:

In order to provide increased horseracing at the 22nd District Agricultural Association at the earliest opportunity, it is necessary that this act take effect immediately.

CHAPTER 1276

An act to amend Section 19601 of the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 19601 of the Business and Professions Code is amended to read:

19601. (a) Notwithstanding any other provision of law, the board may authorize any licensed association or satellite wagering facility to accept wagers on races conducted in this state comprising the program of racing generally known as the Breeders' Cup and feature races conducted in this state having a gross purse of fifty thousand dollars ($50,000) or more, if all of the following requirements are met:

(1) The association which conducts the racing meeting with the Breeders' Cup program or the feature race having a gross purse of fifty thousand dollars ($50,000) or more and the horsemen's organization which represents the horsemen participating in that racing meeting consent to the acceptance of the wagers.

(2) Wagering is offered only within the association's racing inclosure or within the satellite wagering facility and only within 36 hours of the commencement of the racing program with the Breeders' Cup program or with the feature race having a gross purse of fifty thousand dollars ($50,000) or more.

(3) All wagers made at the association or at the satellite wagering facility which accepts the wagers are included in the appropriate conventional or exotic pool at the racetrack of the association which conducts the racing meeting with the Breeders' Cup program or the feature race having a gross purse of fifty thousand dollars ($50,000) or more, unless the board determines that including the wagers in

pools of the association or the satellite wagering facility which accepts the wagers better serves the purpose of this chapter.

(b) Any association or satellite wagering facility accepting wagers under subdivision (a) shall deduct from the total amount handled in each conventional and exotic parimutuel pool, the same percentages deducted pursuant to Article 9.5 (commencing with Section 19610) by the association which conducts the racing meeting with the Breeders' Cup program or the feature race having a gross purse of fifty thousand dollars ($50,000) or more.

(c) From the total amount deducted pursuant to subdivision (b), a commission of 2 percent of the amount it handles shall be retained by the association or the satellite wagering facility which accepts the wager. The funds remaining after distribution of the 2-percent commission shall be distributed in the same relative percentages (reduced pro rata for the 2-percent commission) as provided in Article 9.5 (commencing with Section 19610), except that the funds available for distribution to the association which conducts the racing meeting with the Breeders' Cup program or the feature race having a gross pool of fifty thousand dollars ($50,000) or more and for distribution to horsemen, in the form of purses, shall be accumulated and shall be distributed equally between (1) the association which conducts the racing meeting with the Breeders' Cup program or the feature race having a gross purse of fifty thousand dollars ($50,000) or more and (2) the horsemen, in the form of purses. One-half of the purse money shall be paid to the horsemen who participate in the racing meeting with the Breeders' Cup program or the feature race having a gross purse of fifty thousand dollars ($50,000) or more, and one-half of the purse money shall be paid in the form of purses to the horsemen who are racing at an association which conducts the same breed of racing as the association which conducts the Breeders' Cup program or a feature race having a gross purse of fifty thousand dollars ($50,000) or more.

(d) All breakage and unclaimed tickets shall be distributed equally among the state, the association which conducts the racing meeting with the Breeders' Cup program or the feature race having a gross purse of fifty thousand dollars ($50,000) or more, and the horsemen, in the form of purses, who participate in the racing meeting with the Breeders' Cup program or the feature race having a gross purse of fifty thousand dollars ($50,000) or more.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow this year's Breeders' Cup Race and qualifying feature races to be simultaneously broadcast to northern California satellite wagering facilities and to thereby produce additional state revenue, it is necessary that this act take effect immediately.

CHAPTER 1277

An act to amend Section 51.7 of, and to add Section 52.1 to, the Civil Code, and to amend Section 1170.75 of, and to add Title 11.6 (commencing with Section 422.6) to Part 1 of, the Penal Code, relating to crimes.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987.]

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

SECTION 1. This act shall be known and may be cited as the Tom Bane Civil Rights Act.

SEC. 2. Section 51.7 of the Civil Code is amended to read:

51.7. (a) All persons within the jurisdiction of this state have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability, or position in a labor dispute. The identification in this subdivision of particular bases of discrimination is illustrative rather than restrictive.

This section does not apply to statements concerning positions in a labor dispute which are made during otherwise lawful labor picketing.

(b) As used in this section, "sexual orientation" means heterosexuality, homosexuality, or bisexuality.

SEC. 3. Section 52.1 is added to the Civil Code, to read:

52.1. (a) Whenever a person or persons, whether or not acting under color of law, interferes by threats, intimidation, or coercion, or attempts to interfere by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney may bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the peaceable exercise or enjoyment of the right or rights secured.

(b) Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as described in subdivision (a), may institute and prosecute in his or her own name and on his or her own behalf a civil action for injunctive and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured.

(c) An action brought pursuant to subdivision (a) or (b) may be filed either in the superior court for the county in which the conduct complained of occurred or in the superior court for the county in

which a person whose conduct complained of resides or has his or her place of business. An action brought by the Attorney General pursuant to subdivision (a) may also be filed in the superior court for any county wherein the Attorney General has an office, and in any such case, the jurisdiction of the court shall extend throughout the state.

(d) Whenever a court issues a temporary restraining order or a preliminary or permanent injunction in an action brought pursuant to subdivision (a) or (b), ordering a defendant to refrain from conduct or activities, the order issued shall include the following statement: VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE UNDER SECTION 422.9 OF THE PENAL CODE.

(e) The court shall order the plaintiff or the attorney for the plaintiff to deliver, or the county clerk to mail, two copies of any order, extension, modification, or termination thereof granted pursuant to this section, by the close of the business day on which the order, extension, modification, or termination was granted, to each local law enforcement agency having jurisdiction over the residence of the plaintiff and any other locations where the court determines that acts of violence against the plaintiff are likely to occur. Those local law enforcement agencies shall be designated by the plaintiff or the attorney for the plaintiff. Each appropriate law enforcement agency receiving any order, extension, or modification of any order issued pursuant to this section shall forthwith serve one copy thereof upon the defendant. Each appropriate law enforcement agency shall provide to any law enforcement officer responding to the scene of reported violence, information as to the existence of, terms, and current status of, any order issued pursuant to this section.

(f) A court shall not have jurisdiction to issue an order or injunction under this section if that order or injunction would be prohibited under Section 527.3 of the Code of Civil Procedure.

(g) Actions under this section shall be independent of any other remedies or procedures that may be available to an aggrieved person under any other provision of law.

(h) In addition to any injunction or other equitable relief awarded in an action brought pursuant to subdivision (b), the court may award petitioner reasonable attorney's fees.

(i) Violation of an order described in subdivision (d) may be punished either by prosecution under Section 422.7 of the Penal Code, or by a proceeding for contempt brought pursuant to Title 5 (commencing with Section 1209) of Part 3 of the Code of Civil Procedure. However, in any such proceeding pursuant to the Code of Civil Procedure, if it be determined that the person proceeded against is guilty of the contempt charged, in addition to any other relief, a fine may be imposed not exceeding one thousand dollars ($1,000), or the person may be ordered imprisoned in the county jail not exceeding six months, or the court may order both the fine and imprisonment.

(j) Speech alone shall not be sufficient to support an action under

subdivision (a) or (b), except upon a showing that the speech itself threatens violence against a specific person or group of persons; and the person or group of persons against whom the threat is directed reasonably fears that, because of the speech, violence will be committed against them or their property and that the person threatening violence had the apparent ability to carry out the threat.

(k) No order issued in any proceeding under subdivision (a) or (b) shall restrict the content of any person's speech. An order restricting the time, place, or manner of any person's speech shall do so only to the extent reasonably necessary to protect the peaceable exercise or enjoyment of constitutional or statutory rights, consistent with the constitutional rights of the person sought to be enjoined.

SEC. 4. Title 11.6 (commencing with Section 422.6) is added to Part 1 of the Penal Code, to read:

TITLE 11.6. CIVIL RIGHTS

422.6. (a) No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate or interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States because of the other person's race, color, religion, ancestry, national origin, or sexual orientation.

(b) No person, whether or not acting under color of law, shall knowingly deface, damage, or destroy the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the Constitution or laws of this state or by the Constitution or laws of the United States, because of the other person's race, color, religion, ancestry, national origin, or sexual orientation.

(c) Any person convicted of violating subdivision (a) or (b) shall be punished by imprisonment in the county jail not to exceed six months, or by a fine not to exceed five thousand dollars ($5,000), or by both the fine and imprisonment; provided, however, that no person shall be convicted of violating subdivision (a) based upon speech alone, except upon a showing that the speech itself threatened violence against a specific person or group of persons and that the defendant had the apparent ability to carry out the threat.

422.7. Except in the case of a violation of subdivision (a) or (b) of Section 422.6, any crime which is not made punishable by imprisonment in state prison shall be punishable by imprisonment in state prison or in county jail not to exceed one year, or by fine not to exceed ten thousand dollars ($10,000), or by both the fine and imprisonment, if the crime is committed against the person or property of another for the purpose of intimidating or interfering with that other person's free exercise or enjoyment of any right secured to him or her by the Constitution or laws of this state or by

the Constitution or laws of the United States, because of the other person's race, color, religion, ancestry, national origin, or sexual orientation, under any of the following circumstances, which shall be charged in the accusatory pleading:

(a) The crime against the person of another either includes the present ability to commit a violent injury or causes actual physical injury.

(b) The crime against property causes damage in excess of one thousand dollars ($1,000).

(c) The person charged with a crime under this section has been previously convicted of a violation of subdivision (a) or (b) of Section 422.6, or has been previously convicted of a conspiracy to commit a crime described in subdivision (a) or (b) of Section 422.6.

422.8. Except as otherwise required by law, nothing in Section 422.6 or 422.7 shall be construed to prevent or limit the prosecution of any person pursuant to any provision of law.

422.9. (a) Any willful and knowing violation of any order issued pursuant to subdivision (a) or (b) of Section 52.1 of the Civil Code 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 six months, or by both the fine and imprisonment.

(b) A person who has previously been convicted one or more times of violating an order issued pursuant to subdivision (a) or (b) of Section 52.1 of the Civil Code 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 Section 52.1 of the Civil Code.

SEC. 5. Section 1170.75 of the Penal Code is amended to read:

1170.75. Except in a case in which the person has been convicted of an offense subject to Section 1170.8, the fact that a person committed a felony or attempted to commit a felony because of the victim's race, color, religion, nationality, country of origin, ancestry, or sexual orientation, shall be considered a circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170.

SEC. 6. No reimbursement is required by Sections 4 and 5 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 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.

Furthermore, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution due to the requirement in subdivision (e) of Section 52.1 of the Civil Code, as

added by Section 3 of this act, for law enforcement agencies to serve copies of orders issued pursuant to this act on defendants because self-financing authority is provided in Section 26721 of the Government Code to cover any costs that may be incurred in carrying out any program or performing any service required by that portion of this act.

However, the requirement in subdivision (e) of Section 52.1 of the Civil Code, as added by Section 3 of this act, for county clerks to mail copies of orders issued pursuant to this act to law enforcement agencies 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), it shall be made from the State Mandates Claims Fund.

CHAPTER 1278

An act to amend Section 822 of the Evidence Code, and to add Section 1405.1 to the Public Utilities Code, relating to eminent domain.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 822 of the Evidence Code is amended to read:

822. (a) In an eminent domain or inverse condemnation proceeding, notwithstanding the provisions of Sections 814 to 821, inclusive, the following matter is inadmissible as evidence and shall not be taken into account as a basis for an opinion as to the value of property:

(1) The price or other terms and circumstances of an acquisition of property or a property interest if the acquisition was for a public use for which the property could have been taken by eminent domain, except that the price or other terms and circumstances of an acquisition of property appropriated to a public use or a property interest so appropriated shall not be excluded under this section if the acquisition was for the same public use for which the property could have been taken by eminent domain.

(2) The price at which an offer or option to purchase or lease the property or property interest being valued or any other property was made, or the price at which such property or interest was optioned,

offered, or listed for sale or lease, except that an option, offer, or listing may be introduced by a party as an admission of another party to the proceeding; but nothing in this subdivision permits an admission to be used as direct evidence upon any matter that may be shown only by opinion evidence under Section 813.

(3) The value of any property or property interest as assessed for taxation purposes or the amount of taxes which may be due on the property, but nothing in this subdivision prohibits the consideration of actual or estimated taxes for the purpose of determining the reasonable net rental value attributable to the property or property interest being valued.

(4) An opinion as to the value of any property or property interest other than that being valued.

(5) The influence upon the value of the property or property interest being valued of any noncompensable items of value, damage, or injury.

(6) The capitalized value of the income or rental from any property or property interest other than that being valued.

(b) In an action other than an eminent domain or inverse condemnation proceeding, the matters listed in subdivision (a) are not admissible as evidence, and may not be taken into account as a basis for an opinion as to the value of property, except to the extent permitted under the rules of law otherwise applicable.

(c) The amendments made to this section during the 1987 portion of the 1987–88 Regular Session of the Legislature shall not apply to or affect any petition filed pursuant to this section before January 1, 1988.

SEC. 2. Section 1405.1 is added to the Public Utilities Code, to read:

1405.1. With respect to water corporations and water companies, the following procedures shall apply:

(a) Upon the filing of the petition the commission shall make its order to show cause. The order shall specify the nature of the proceeding, contain a general description of the lands, property, and rights which petitioner desires to acquire by condemnation or otherwise, and direct the owners and claimants named in the petition, who shall also be named in the order, to appear before the commission at a time and place specified in the order, to show cause, if any they have, why the commission should not proceed to hear the petition and to fix the just compensation to be paid for the lands, property, and rights.

The order shall direct the executive director of the commission to serve or cause to be served upon each owner and claimant a copy of the order certified under the seal of the commission to which shall be attached a copy of the petition.

(b) In response to the order to show cause, in response to a petition of the first class, as specified in Section 1403, the respondent public utility, or the owners of more than one-half interest in the public utility, may present the commission with a certified copy of

a filed motion to the superior court where the utility property is located to take jurisdiction of the matter. When presented the motion before, or at the time of, the hearing on the order to show cause, the commission shall dismiss the proceeding. The superior court shall then grant the motion to take jurisdiction of the matter. The political subdivision may then file, within 60 days of the court's granting the motion, an action in eminent domain pursuant to the Code of Civil Procedure and any further proceedings shall be conducted pursuant to those provisions.

(c) All proceedings held pursuant to either subdivision (b) or (d) shall be given priority over all civil cases in accordance with Section 1260.010 of the Code of Civil Procedure.

(d) In response to an order to show cause in response to a petition of the second class, as specified in Section 1403, and upon presentation of the motion specified in subdivision (b), the commission shall suspend the proceeding, but shall not dismiss the proceeding. The superior court shall then grant the motion to take limited jurisdiction of the matter solely for the purpose of determining the amount of just compensation. The political subdivision may then file, within 30 days, an action in the nature of eminent domain, solely for the purpose of determining, pursuant to the Evidence Code and the Code of Civil Procedure, the just compensation to be paid for the land, property, and rights. Upon a determination of just compensation, the court shall certify the finding to the commission. The finding shall not be appealable, and the court shall be acting as an agent of the commission in making the finding. The finding shall be binding on the commission as if it had been made by the commission itself pursuant to Section 1411. The commission shall then continue the matter pursuant to this chapter.

(e) If the respondent public utility, or the owners of more than one-half interest in the public utility, in the case of a petition of either the first or second class, files a motion to remove the matter from the commission to superior court pursuant to this section, the commission and the court shall not make an award of any litigation expenses incurred prior to the commission's dismissal or suspension of the matter.

(f) Notwithstanding any other provision of law, the date of valuation for purposes of just compensation shall be fixed by the superior court as of the day on which the court grants the motion filed by the public utility pursuant to subdivision (b) or (c).

(g) A political subdivision is liable only as provided in Sections 1414 and 1415 for payment of the reasonable expenditures of the owner in any proceeding initiated pursuant to subdivision (c). For purposes of this subdivision, the proceeding before the commission, as used in Section 1415, includes any proceedings conducted pursuant to subdivision (c).

(h) The amendments made to this section by Assembly Bill 616 during the 1987 portion of the 1987–88 Regular Session of the Legislature shall not apply to or affect any petition filed pursuant to

this section before January 1, 1988.

SEC. 3. The Legislature hereby finds and declares that the purpose of the act is to permit a public utility or its owners to be assured a court trial in the very limited area of just compensation. Since the superior court already has jurisdiction to fix just compensation, at the discretion of the condemning political subdivision, this act extends this discretion to the condemnee utility and its owners, and amends the current Public Utilities Commission's procedures solely for the purpose of placing each side on an equal footing.

CHAPTER 1279

An act to amend Sections 120051, and 120265 of, and to add Section 120266 to, the Public Utilities Code, relating to transit.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 120051 of the Public Utilities Code is amended to read:

120051. The member of the board of supervisors appointed pursuant to subdivision (a) of Section 120050 shall represent a supervisorial district completely within the area under the jurisdiction of the transit development board as defined in Section 120054.

SEC. 2. 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 San Diego Transit 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 the 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. 3. Section 120266 is added to the Public Utilities Code, to read:

120266. (a) The San Diego Metropolitan Transit Development Board may enter into contracts with any city in its area of jurisdiction and with the County of San Diego to license or regulate by ordinance any transportation services rendered wholly within the city's corporate limits or within the unincorporated area.

(b) The board shall levy the fees necessary to recover the full cost of licensing and regulating these services.

CHAPTER 1280

An act to add Chapter 20.5 (commencing with Section 9889.70) to Division 3 of the Business and Professions Code, to amend Sections 1793.2 and 1794 of, and to add Section 1793.25 to, the Civil Code, to amend Section 7102 of the Revenue and Taxation Code, and to amend Section 3050 of the Vehicle Code, relating to warranties, and making an appropriation therefor.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987.]

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

SECTION 1. Chapter 20.5 (commencing with Section 9889.70) is added to Division 3 of the Business and Professions Code, to read:

CHAPTER 20.5. CERTIFICATION OF THIRD PARTY DISPUTE RESOLUTION PROCESSES

9889.70. Unless the context requires otherwise, the following definitions govern the construction of this chapter:

(a) "Bureau" means the Bureau of Automotive Repair.

(b) "New motor vehicle" means a new motor vehicle as defined in subparagraph (B) of paragraph (4) of subdivision (e) of Section 1793.2 of the Civil Code.

(c) "Manufacturer" means a new motor vehicle manufacturer, manufacturer branch, distributor, or distributor branch required to be licensed pursuant to Article 1 (commencing with Section 11700) of Chapter 4 of Division 5 of the Vehicle Code.

(d) "Qualified third party dispute resolution process" means a third party dispute resolution process which operates in compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code and this chapter and which has been certified by the bureau pursuant to this chapter.

9889.71. The bureau shall establish a program for certifying each third party dispute resolution process used for the arbitration of disputes pursuant to paragraph (2) of subdivision (e) of Section 1793.2 of the Civil Code. In establishing the program, the bureau shall do all of the following:

(a) Prescribe and provide forms to be used to apply for certification under this chapter.

(b) Establish a set of minimum standards which shall be used to determine whether a third party dispute resolution process is in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code and this chapter.

(c) Prescribe the information which each manufacturer, or other entity, that uses a third party dispute resolution process, and that applies to have that process certified by the bureau, shall provide the

bureau in the application for certification. In prescribing the information to accompany the application for certification, the bureau shall require the manufacturer, or other entity, to provide only that information which the bureau finds is reasonably necessary to enable the bureau to determine whether the third party dispute resolution process is in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code and this chapter.

(d) Prescribe the information that each qualified third party dispute resolution process shall provide the bureau, and the time intervals at which the information shall be required, to enable the bureau to determine whether the qualified third party dispute resolution process continues to operate in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code and this chapter.

9889.72. (a) Each manufacturer may establish, or otherwise make available to buyers or lessees of new motor vehicles, a qualified third party dispute resolution process for the resolution of disputes pursuant to paragraph (2) of subdivision (e) of Section 1793.2 of the Civil Code. The manufacturer, or other entity, which operates the third party dispute resolution process shall apply to the bureau for certification of that process. The application for certification shall be accompanied by the information prescribed by the bureau.

(b) The bureau shall review the application and accompanying information and, after conducting an onsite inspection, shall determine whether the third party dispute resolution process is in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code and this chapter. If the bureau determines that the process is in substantial compliance, the bureau shall certify the process. If the bureau determines that the process is not in substantial compliance, the bureau shall deny certification and shall state, in writing, the reasons for denial and the modifications in the operation of the process that are required in order for the process to be certified.

(c) The bureau shall make a final determination whether to certify a third party dispute resolution process or to deny certification not later than 90 calendar days following the date the bureau accepts the application for certification as complete.

9889.73. (a) The bureau, in accordance with the time intervals prescribed pursuant to subdivision (d) of Section 9889.71, but at least once annually, shall review the operation and performance of each qualified third party dispute resolution process and determine, using the information provided the bureau as prescribed pursuant to subdivision (d) of Section 9889.71 and the monitoring and inspection information described in subdivision (c) of Section 9889.74, whether the process is operating in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code and this chapter. If the bureau determines that the process is in substantial compliance, the certification shall remain in effect.

(b) If the bureau determines that the process is not in substantial

compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code or this chapter, the bureau shall issue a notice of decertification to the manufacturer, or other entity, which uses that process. The notice of decertification shall state the reasons for the issuance of the notice and prescribe the modifications in the operation of the process that are required in order for the process to retain its certification.

(c) A notice of decertification shall take effect 180 calendar days following the date the notice is served on the manufacturer, or other entity, which uses the process that the bureau has determined is not in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code or this chapter. The bureau shall withdraw the notice of decertification prior to its effective date if the bureau determines, after a public hearing, that the manufacturer, or other entity, which uses the process has made the modifications in the operation of the process required in the notice of decertification and is in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code and this chapter.

9889.74. In addition to any other requirements of this chapter, the bureau shall do all of the following:

(a) Establish procedures to assist owners or lessees of new motor vehicles who have complaints regarding the operation of a qualified third-party dispute resolution process.

(b) Establish methods for measuring customer satisfaction and to identify violations of this chapter, which shall include an annual random postcard or telephone survey by the bureau of the customers of each qualified third-party dispute resolution process.

(c) Monitor and inspect, on a regular basis, qualified third-party dispute resolution processes to determine whether they continue to meet the standards for certification. Monitoring and inspection shall include, but not be limited to, all of the following:

(1) Onsite inspections of each certified process not less frequently than twice annually.

(2) Investigation of complaints from consumers regarding the operation of qualified third party dispute resolution processes and analyses of representative samples of complaints against each process.

(3) Analyses of the annual surveys required by subdivision (b).

(d) Notify the Department of Motor Vehicles of the failure of a manufacturer to honor a decision of a qualified third-party dispute resolution process to enable the department to take appropriate enforcement action against the manufacturer pursuant to Section 11705.4 of the Vehicle Code.

(e) Submit a biennial report to the Legislature evaluating the effectiveness of this chapter, make available to the public summaries of the statistics and other information supplied by each qualified third-party resolution process, and publish educational materials regarding the purposes of this chapter.

(f) Adopt regulations as necessary and appropriate to implement

the provisions of this chapter.

9889.75. The New Motor Vehicle Board in the Department of Motor Vehicles shall, in accordance with the procedures prescribed in this section, administer the collection of fees for the purposes of fully funding the administration of this chapter.

(a) There is hereby created in the Automotive Repair Fund a Certification Account. Fees collected pursuant to this section shall be deposited in the Certification Account and shall be available, upon appropriation by the Legislature, exclusively to pay the expenses incurred by the bureau in administering this chapter. If at the conclusion of any fiscal year the amount of fees collected exceeds the amount of expenditures for that purpose during that fiscal year, the surplus in the Certification Account shall be carried over into the succeeding fiscal year.

(b) Beginning July 1, 1988, every applicant for a license as a manufacturer, manufacturer branch, distributor, or distributor branch, and every applicant for the renewal of a license as a manufacturer, manufacturer branch, distributor, or distributor branch, shall accompany the application with a statement of the number of motor vehicles sold, leased, or otherwise distributed by or for the applicant in this state during the preceding calendar year, and shall pay to the Department of Motor Vehicles, for each issuance or renewal of the license, an amount prescribed by the New Motor Vehicle Board, but not to exceed one dollar ($1) for each motor vehicle sold, leased, or distributed by or for the applicant in this state during the preceding calendar year. The total fee paid by each licensee shall be rounded to the nearest dollar in the manner described in Section 9559 of the Vehicle Code. No more than one dollar ($1) shall be charged, collected, or received from any one or more licensees pursuant to this subdivision with respect to the same motor vehicle.

(c) On or before January 1 of each calendar year, the bureau shall determine the dollar amount, not to exceed one dollar ($1) per motor vehicle, which shall be collected and received by the Department of Motor Vehicles beginning July 1 of that year, based upon an estimate of the number of sales, leases, and other dispositions of motor vehicles in this state during the preceding calendar year, in order to fully fund the program established by this chapter during the following fiscal year. The bureau shall notify the New Motor Vehicle Board of the dollar amount per motor vehicle that the New Motor Vehicle Board shall use in calculating the amounts of the fees to be collected from applicants pursuant to this subdivision.

(d) For the purposes of this section, "motor vehicle" means a new passenger or commercial motor vehicle of a kind that is required to be registered under the Vehicle Code, but the term does not include a motorcycle, a motor home, or any vehicle whose gross weight exceeds 10,000 pounds.

(e) The New Motor Vehicle Board may adopt regulations to

implement this section.

9889.76. This chapter shall become operative on July 1, 1988.

SEC. 2. Section 1793.2 of the Civil Code is amended to read:

1793.2. (a) Every manufacturer of consumer goods sold in this state and for which the manufacturer has made an express warranty shall:

(1) Maintain in this state sufficient service and repair facilities reasonably close to all areas where its consumer goods are sold to carry out the terms of such warranties or designate and authorize in this state as service and repair facilities independent repair or service facilities reasonably close to all areas where its consumer goods are sold to carry out the terms of such warranties.

As a means of complying with this paragraph, a manufacturer may enter into warranty service contracts with independent service and repair facilities. The warranty service contracts may provide for a fixed schedule of rates to be charged for warranty service or warranty repair work, however, the rates fixed by such contracts shall be in conformity with the requirements of subdivision (c) of Section 1793.3. The rates established pursuant to subdivision (c) of Section 1793.3, between the manufacturer and the independent service and repair facility, shall not preclude a good faith discount which is reasonably related to reduced credit and general overhead cost factors arising from the manufacturer's payment of warranty charges direct to the independent service and repair facility. The warranty service contracts authorized by this paragraph shall not be executed to cover a period of time in excess of one year, and may be renewed only by a separate, new contract or letter of agreement between the manufacturer and the independent service and repair facility.

(2) In the event of a failure to comply with paragraph (1) of this subdivision, be subject to Section 1793.5.

(3) Make available to authorized service and repair facilities sufficient service literature and replacement parts to effect repairs during the express warranty period.

(b) Where such service and repair facilities are maintained in this state and service or repair of the goods is necessary because they do not conform with the applicable express warranties, service and repair shall be commenced within a reasonable time by the manufacturer or its representative in this state. Unless the buyer agrees in writing to the contrary, the goods shall be serviced or repaired so as to conform to the applicable warranties within 30 days. Delay caused by conditions beyond the control of the manufacturer or his representatives shall serve to extend this 30-day requirement. Where delay arises, conforming goods shall be tendered as soon as possible following termination of the condition giving rise to the delay.

(c) The buyer shall deliver nonconforming goods to the manufacturer's service and repair facility within this state, unless, due to reasons of size and weight, or method of attachment, or

method of installation, or nature of the nonconformity, delivery cannot reasonably be accomplished. If the buyer cannot return the nonconforming goods for any of these reasons, he or she shall notify the manufacturer or its nearest service and repair facility within the state. Written notice of nonconformity to the manufacturer or its service and repair facility shall constitute return of the goods for purposes of this section. Upon receipt of such notice of nonconformity the manufacturer shall, at its option, service or repair the goods at the buyer's residence, or pick up the goods for service and repair, or arrange for transporting the goods to its service and repair facility. All reasonable costs of transporting the goods when a buyer cannot return them for any of the above reasons shall be at the manufacturer's expense. The reasonable costs of transporting nonconforming goods after delivery to the service and repair facility until return of the goods to the buyer shall be at the manufacturer's expense.

(d) (1) Except as provided in paragraph (2), if the manufacturer or its representative in this state does not service or repair the goods to conform to the applicable express warranties after a reasonable number of attempts, the manufacturer shall either replace the goods or reimburse the buyer in an amount equal to the purchase price paid by the buyer, less that amount directly attributable to use by the buyer prior to the discovery of the nonconformity.

(2) If the manufacturer of its representative in this state is unable to service or repair a new motor vehicle, as that term is defined in subparagraph (B) of paragraph (4) of subdivision (e), to conform to the applicable express warranties after a reasonable number of attempts, the manufacturer shall either promptly replace the new motor vehicle in accordance with subparagraph (A) or promptly make restitution to the buyer in accordance with subparagraph (B). However, the buyer shall be free to elect restitution in lieu of replacement, and in no event shall the buyer be required by the manufacturer to accept a replacement vehicle.

(A) In the case of replacement, the manufacturer shall replace the buyer's vehicle with a new motor vehicle substantially identical to the vehicle replaced. The replacement vehicle shall be accompanied by all express and implied warranties that normally accompany new motor vehicles of that specific kind. The manufacturer also shall pay for, or to, the buyer the amount of any sales or use tax, license fees, registration fees, and other official fees which the buyer is obligated to pay in connection with the replacement, plus any incidental damages to which the buyer is entitled under Section 1794, including, but not limited to, reasonable repair, towing, and rental car costs actually incurred by the buyer.

(B) In the case of restitution, the manufacturer shall make restitution in an amount equal to the actual price paid or payable by the buyer, including any charges for transportation and manufacturer-installed options, but excluding nonmanufacturer items installed by a dealer or the buyer, and including any collateral

charges such as sales tax, license fees, registration fees, and other official fees, plus any incidental damages to which the buyer is entitled under Section 1794, including, but not limited to, reasonable repair, towing, and rental car costs actually incurred by the buyer.

(C) When the manufacturer replaces the new motor vehicle pursuant to subparagraph (A), the buyer shall only be liable to pay the manufacturer an amount directly attributable to use by the buyer of the replaced vehicle prior to the time the buyer first delivered the vehicle to the manufacturer or distributor, or its authorized service and repair facility for correction of the problem that gave rise to the nonconformity. When restitution is made pursuant to subparagraph (B), the amount to be paid by the manufacturer to the buyer may be reduced by the manufacturer by that amount directly attributable to use by the buyer prior to the time the buyer first delivered the vehicle to the manufacturer or distributor, or its authorized service and repair facility for correction of the problem that gave rise to the nonconformity. The amount directly attributable to use by the buyer shall be determined by multiplying the actual price of the new motor vehicle paid or payable by the buyer, including any charges for transportation and manufacturer-installed options, by a fraction having as its denominator 120,000 and having as its numerator the number of miles traveled by the new motor vehicle prior to the time the buyer first delivered the vehicle to the manufacturer or distributor, or its authorized service and repair facility for correction of the problem that gave rise to the nonconformity. Nothing in this paragraph shall in any way limit the rights or remedies available to the buyer under any other law.

(e) (1) It shall be presumed that a reasonable number of attempts have been made to conform a new motor vehicle to the applicable express warranties if, within one year from delivery to the buyer or 12,000 miles on the odometer of the vehicle, whichever occurs first, either (A) the same nonconformity has been subject to repair four or more times by the manufacturer or its agents and the buyer has at least once directly notified the manufacturer of the need for the repair of the nonconformity, or (B) the vehicle is out of service by reason of repair of nonconformities by the manufacturer or its agents for a cumulative total of more than 30 calendar days since delivery of the vehicle to the buyer. The 30-day limit shall be extended only if repairs cannot be performed due to conditions beyond the control of the manufacturer or its agents. The buyer shall be required to directly notify the manufacturer pursuant to subparagraph (A) only if the manufacturer has clearly and conspicuously disclosed to the buyer, with the warranty or the owner's manual, the provisions of this subdivision and that of subdivision (d), including the requirement that the buyer must notify the manufacturer directly pursuant to subparagraph (A). This presumption shall be a rebuttable presumption affecting the burden of proof, and it may be asserted by the buyer in any civil action,

including an action in small claims court, or other formal or informal proceeding.

(2) If a qualified third party dispute resolution process exists, and the buyer receives timely notification in writing of the availability of a third party process with a description of its operation and effect, the presumption in paragraph (1) may not be asserted by the buyer until after the buyer has initially resorted to the third party process as required in paragraph (3). Notification of the availability of the third party process is not timely if the buyer suffers any prejudice resulting from any delay in giving the notification. If a qualified third party dispute resolution process does not exist, or if the buyer is dissatisfied with the third party decision, or if the manufacturer or its agent neglects to promptly fulfill the terms of such third party decision after the decision is accepted by the buyer, the buyer may assert the presumption provided in paragraph (1) in an action to enforce the buyer's rights under subdivision (d). The findings and decision of the third party shall be admissible in evidence in the action without further foundation. Any period of limitation of actions under any federal or California laws with respect to any person shall be extended for a period equal to the number of days between the date a complaint is filed with a third party dispute resolution process and the date of its decision or the date before which the manufacturer or its agent is required by the decision to fulfill its terms if the decision is accepted by the buyer, whichever occurs later.

(3) A qualified third party dispute resolution process shall be one that does all of the following:

(A) Complies with the minimum requirements of the Federal Trade Commission for informal dispute settlement procedures as set forth in Part 703 of Title 16 of the Code of Federal Regulations, as those regulations read on January 1, 1987.

(B) Renders decisions which are binding on the manufacturer if the buyer elects to accept the decision.

(C) Prescribes a reasonable time, not to exceed 30 days after the decision is accepted by the buyer, within which the manufacturer or its agent must fulfill the terms of its decisions.

(D) Provides arbitrators who are assigned to decide disputes with copies of, and instruction in, the provisions of the Federal Trade Commission's regulations in Part 703 of Title 16 of the Code of Federal Regulations as those regulations read on January 1, 1987, Division 2 (commencing with Section 2101) of the Commercial Code, and this chapter.

(E) Requires the manufacturer, when the process orders, under the terms of this chapter, either that the nonconforming motor vehicle be replaced if the buyer consents to this remedy or that restitution be made to the buyer, to replace the motor vehicle or make restitution in accordance with paragraph (2) of subdivision (d).

(F) Provides, at the request of the arbitrator or a majority of the

arbitration panel, for an inspection and written report on the condition of a nonconforming motor vehicle, at no cost to the buyer, by an automobile expert who is independent of the manufacturer.

(G) Takes into account, in rendering decisions, all legal and equitable factors, including, but not limited to, the written warranty, the rights and remedies conferred in regulations of the Federal Trade Commission contained in Part 703 of Title 16 of the Code of Federal Regulations as those regulations read on January 1, 1987, Division 2 (commencing with Section 2101) of the Commercial Code, this chapter, and any other equitable considerations appropriate in the circumstances. Nothing in this chapter requires that, to be certified as a qualified third-party dispute resolution process pursuant to this section, decisions of the process must consider or provide remedies in the form of awards of punitive damages or multiple damages, under subdivision (c) of Section 1794, or of attorney's fees under subdivision (d) of Section 1794, or of consequential damages other than as provided in subdivisions (a) and (b) of Section 1794, including, but not limited to, reasonable repair, towing and rental car costs actually incurred by the buyer.

(H) Requires that no arbitrator deciding a dispute may be a party to the dispute and that no other person, including an employee, agent, or dealer for the manufacturer, may be allowed to participate substantively in the merits of any dispute with the arbitrator unless the buyer is allowed to participate also. Nothing in this paragraph prohibits any member of an arbitration board from deciding a dispute.

(I) Obtains and maintains certification by the Bureau of Automotive Repair pursuant to Chapter 20.5 (commencing with Section 9889.70) of Division 3 of the Business and Professions Code.

(4) For the purposes of subdivision (d) and this subdivision the following terms have the following meanings:

(A) "Nonconformity" means a nonconformity which substantially impairs the use, value, or safety of the new motor vehicle to the buyer or lessee.

(B) "New motor vehicle" means a new motor vehicle which is used or bought for use primarily for personal, family, or household purposes. "New motor vehicle" includes a dealer-owned vehicle and a "demonstrator" or other motor vehicle sold with a manufacturer's new car warranty but does not include a motorcycle, a motorhome, or a motor vehicle which is not registered under the Vehicle Code because it is to be operated or used exclusively off the highways. A "demonstrator" is a vehicle assigned by a dealer for the purpose of demonstrating qualities and characteristics common to vehicles of the same or similar model and type.

(5) No person shall sell or lease a motor vehicle transferred by a buyer or lessee to a manufacturer pursuant to paragraph (2) of subdivision (d) unless the nature of the nonconformity experienced by the original buyer or lessee is clearly and conspicuously disclosed, the nonconformity is corrected, and the manufacturer warrants to

the new buyer or lessee in writing for a period of one year that the motor vehicle is free of that nonconformity.

SEC. 3. Section 1793.25 is added to the Civil Code, to read:

1793.25. (a) Notwithstanding Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, the State Board of Equalization shall reimburse the manufacturer of a new motor vehicle for an amount equal to the sales tax which the manufacturer includes in making restitution to the buyer pursuant to subparagraph (B) of paragraph (2) of subdivision (d) of Section 1793.2, when satisfactory proof is provided that the retailer of the motor vehicle for which the manufacturer is making restitution has reported and paid the sales tax on the gross receipts from the sale of that motor vehicle. The State Board of Equalization may adopt rules and regulations to carry out, facilitate compliance with, or prevent circumvention or evasion of, this section.

(b) Nothing in this section shall in any way change the application of the sales and use tax to the gross receipts and the sales price from the sale, and the storage, use, or other consumption, in this state or tangible personal property pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

(c) The manufacturer's claim for reimbursement and the board's approval or denial of the claim shall be subject to the provisions of Article 1 (commencing with Section 6901) of Chapter 7 of Part 1 of Division 2 of the Revenue and Taxation Code, except Sections 6902.1, 6903, 6907, and 6908 thereof, insofar as those provisions are not inconsistent with this section.

SEC. 4. Section 1794 of the Civil Code is amended to read:

1794. (a) Any buyer of consumer goods who is damaged by a failure to comply with any obligation under this chapter or under an implied or express warranty or service contract may bring an action for the recovery of damages and other legal and equitable relief.

(b) The measure of the buyer's damages in an action under this section shall include the rights of replacement or reimbursement as set forth in subdivision (d) of Section 1793.2, and the following:

(1) Where the buyer has rightfully rejected or justifiably revoked acceptance of the goods or has exercised any right to cancel the sale, Sections 2711, 2712, and 2713 of the Commercial Code shall apply.

(2) Where the buyer has accepted the goods, Sections 2714 and 2715 of the Commercial Code shall apply, and the measure of damages shall include the cost of repairs necessary to make the goods conform.

(c) If the buyer establishes that the failure to comply was willful, the judgment may include, in addition to the amounts recovered under subdivision (a), a civil penalty which shall not exceed two times the amount of actual damages. This subdivision shall not apply in any class action under Section 382 of the Code of Civil Procedure or under Section 1781, or with respect to a claim based solely on a breach of an implied warranty.

(d) If the buyer prevails in an action under this section, the buyer

shall be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of costs and expenses, including attorney's fees based on actual time expended, determined by the court to have been reasonably incurred by the buyer in connection with the commencement and prosecution of such action.

(e) (1) Except as otherwise provided in this subdivision, if the buyer establishes a violation of paragraph (2) of subdivision (d) of Section 1793.2, the buyer shall recover damages and reasonable attorney's fees and costs, and may recover a civil penalty of up to two times the amount of damages.

(2) If the manufacturer maintains a qualified third-party dispute resolution process which substantially complies with subdivision (e) of Section 1793.2, the manufacturer shall not be liable for any civil penalty pursuant to this subdivision.

(3) After the occurrence of the events giving rise to the presumption established in paragraph (1) of subdivision (e) of Section 1793.2, the buyer may serve upon the manufacturer a written notice requesting that the manufacturer comply with paragraph (2) of subdivision (d) of Section 1793.2. If the buyer fails to serve the notice, the manufacturer shall not be liable for a civil penalty pursuant to this subdivision.

(4) If the buyer serves the notice described in paragraph (3) and the manufacturer complies with paragraph (2) of subdivision (d) of Section 1793.2 within 30 days of the service of that notice, the manufacturer shall not be liable for a civil penalty pursuant to this subdivision.

(5) If the buyer recovers a civil penalty under subdivision (c), the buyer may not also recover a civil penalty under this subdivision for the same violation.

SEC. 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, and pursuant to Section 1793.25 of the Civil Code, 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 dollars ($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 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)).

(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 paragraphs (1) and (2) of subdivision (a) shall be made quarterly.

SEC. 6. 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, and pursuant to Section 1793.25 of the Civil Code, 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 dollars ($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 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)).

(b) The following percentage of the amount of all revenues, less refunds, derived under this part attributable to the sale, storage, use or other consumption of aircraft jet fuel used in propelling aircraft the sale or use of which in this state is subject to the tax imposed by Part 2 (commencing with Section 7301) and which are not subject to refund, shall be estimated by the State Board of Equalization, with

the concurrence of the Department of Finance, and shall be transferred to the Aeronautics Account in the State Transportation Fund:

(1) For the 1988–89 fiscal year, 50 percent of the amount.

(2) For the 1989–90 fiscal year and each fiscal year thereafter, 100 percent of the amount.

(c) After application of subdivisions (a) and (b), the balance shall be transferred to the General Fund.

(d) The estimate required by subdivisions (a) and (b) shall be based on taxable transactions occurring during a calendar year, and the transfers required by subdivisions (a) and (b) shall be made during the fiscal year that commences during that same calendar year. Transfers required by paragraphs (1) and (2) of subdivision (a) and subdivision (b) shall be made quarterly.

SEC. 7. Section 3050 of the Vehicle Code is amended to read:

3050. The board shall do all of the following:

(a) Adopt rules and regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code governing such matters as are specifically committed to its jurisdiction.

(b) Hear and consider, within the limitations and in accordance with the procedure provided, an appeal presented by an applicant for, or holder of, a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative when the applicant or licensee submits an appeal provided for in this chapter from a decision arising out of the department.

(c) Consider any matter concerning the activities or practices of any person applying for or holding a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative pursuant to Chapter 4 (commencing with Section 11700) of Division 5 submitted by any person. A member of the board who is a new motor vehicle dealer may not participate in, hear, comment, advise other members upon, or decide any matter considered by the board pursuant to this subdivision that involves a dispute between a franchisee and franchisor. After such consideration, the board may do any one or any combination of the following:

(1) Direct the department to conduct investigation of matters that the board deems reasonable, and make a written report on the results of the investigation to the board within the time specified by the board.

(2) Undertake to mediate, arbitrate, or otherwise resolve any honest difference of opinion or viewpoint existing between any member of the public and any new motor vehicle dealer, manufacturer, manufacturer branch, distributor branch, or representative.

(3) Order the department to exercise any and all authority or power that the department may have with respect to the issuance,

renewal, refusal to renew, suspension, or revocation of the license of any new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative as such license is required under Chapter 4 (commencing with Section 11700) of Division 5.

(d) Hear and consider, within the limitations and in accordance with the procedure provided, a protest presented by a franchisee pursuant to Section 3060, 3062, 3064, or 3065. A member of the board who is a new motor vehicle dealer may not participate in, hear, comment, advise other members upon, or decide, any matter involving a protest filed pursuant to Article 4 (commencing with Section 3060).

SEC. 8. The sum of twenty-five thousand three hundred thirty-four dollars ($25,334) is hereby appropriated from the funds deposited, pursuant to Section 3016 of the Vehicle Code, in the Motor Vehicle Account in the State Transportation Fund to the New Motor Vehicle Board for the purpose of reimbursing the Department of Motor Vehicles for its expenses in implementing Section 9889.75 of the Business and Professions Code.

(b) The amount appropriated by subdivision (a) shall be repaid, plus interest, from the Certification Account in the Automotive Repair Fund in the 1988–89 fiscal year, as provided in subdivision (c). The interest shall be charged at the rate earned by the Pooled Money Investment Account in the General Fund during the period from January 1, 1988, until the date the transfer of funds required by subdivision (c) takes place and shall be paid for that same period of time. The Bureau of Automotive Repair shall take into account the requirement to repay the amount appropriated by subdivision (a), plus interest, in determining the dollar amount per vehicle specified in subdivision (c) of Section 9889.75 of the Business and Professions Code.

(c) The sum of twenty-five thousand three hundred thirty-four dollars ($25,334), plus so much more as shall be needed to pay the interest required by subdivision (b), shall be transferred from the Certification Account in the Automotive Repair Fund to the Motor Vehicle Account in the State Transportation Fund during the 1988–89 fiscal year. The transfer shall be in repayment of the amount appropriated pursuant to subdivision (a), plus interest as required by subdivision (b), and shall be deposited in the Motor Vehicle Account to the credit of the funds deposited in that account pursuant to Section 3016 of the Vehicle Code.

If the amount used by the New Motor Vehicle Board to reimburse the Department of Motor Vehicles for its expenses in implementing Section 9889.75 of the Business and Professions Code is less than the amount appropriated by subdivision (a), the unused portion of the appropriation shall revert to the Motor Vehicle Account and the amount transferred by this subdivision shall be reduced to the amount actually used by the New Motor Vehicle Board to reimburse the Department of Motor Vehicles, plus the interest on that amount.

This subdivision shall become operative on July 1, 1988.

SEC. 9. The amendment of subdivision (b) of Section 1794 of the Civil Code made at the 1987–88 Regular Session of the Legislature does not constitute a change in, but is declaratory of, existing law.

SEC. 10. Section 6 of this bill incorporates amendments to Section 7102 of the Revenue and Taxation Code proposed by both this bill and AB 276. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1988, (2) each bill amends Section 7102 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 276, in which case Section 5 of this bill shall not become operative.

CHAPTER 1281

An act to amend Section 5490 of, to add Sections 5491.1, 5491.2, 5498.1, and 5498.2 to, and to add Chapter 2.6 (commencing with Section 5499.1) to Division 3 of, the Business and Professions Code, relating to on-premises advertising.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 5490 of the Business and Professions Code is amended to read:

5490. (a) This chapter applies only to lawfully erected on-premises advertising displays.

(b) As used in this chapter, "on-premises advertising displays" means any structure, housing, sign, device, figure, statuary, painting, display, message placard, or other contrivance, or any part thereof, which has been designed, constructed, created, intended, or engineered to have a useful life of 15 years or more, and intended or used to advertise, or to provide data or information in the nature of advertising, for any of the following purposes:

(1) To designate, identify, or indicate the name or business of the owner or occupant of the premises upon which the advertising display is located.

(2) To advertise the business conducted, services available or rendered, or the goods produced, sold, or available for sale, upon the property where the advertising display has been lawfully erected.

(c) As used in this chapter, "introduced or adopted prior to March 12, 1983," means an ordinance or other regulation of a city or county which was officially presented before, formally read and announced by, or adopted by the legislative body prior to March 12, 1983.

(d) This chapter does not apply to advertising displays used exclusively for outdoor advertising pursuant to the Outdoor Advertising Act (Chapter 2 (commencing with Section 5200)).

(e) As used in this chapter, illegal advertising displays do not include legally erected, but nonconforming, displays for which the applicable amortization period has not expired.

(f) As used in this chapter, "abandoned advertising display" means any display remaining in place or not maintained for a period of 90 days which no longer advertises or identifies an ongoing business, product, or service available on the business premise where the display is located.

SEC. 2. Section 5491.1 is added to the Business and Professions Code, to read:

5491.1. Any city or county adopting, modifying, or amending any ordinance or regulation after January 1, 1988, which regulates or prohibits the use of any on-premises advertising display shall include provisions in that ordinance, regulation, or amendment for the inventorying and identification of illegal or abandoned advertising displays within its jurisdiction.

The inventory and identification shall commence within six months from the date of adoption of the ordinance or regulation. Within 60 days after the six-month period, the city or county, as the case may be, shall commence abatement of the identified preexisting illegal and abandoned on-premises advertising displays.

This section does not apply to the adoption or amendment of an ordinance if that new ordinance or amendment is limited in its effect to regulating the construction of new on-premises advertising displays. A new on-premise advertising display means, for purposes of this section, a display whose structure or housing has not been affixed to its intended premises. Construction means, for purposes of this section, the manufacturing or creation of a new on-premises advertising display.

SEC. 3. Section 5491.2 is added to the Business and Professions Code, to read:

5491.2. A city or county may impose reasonable fees upon all owners or lessees of on-premises business advertising displays for the purpose of covering its actual cost of inventorying and identifying illegal or abandoned advertising displays which are within its jurisdiction.

The actual cost may be fixed upon a determination of the total estimated reasonable cost, the amount of which and the fee to be charged is exclusively within the discretion of the city or county.

SEC. 4. Section 5498.1 is added to the Business and Professions Code, to read:

5498.1. A city or county may not deny, refuse to issue, or condition the issuance of a business license or a permit to construct a new legal on-premises advertising display upon the removal, conformance, repair, modification, or abatement of any other on-premises advertising display on the same real property where the business is to be or has been maintained if both of the following apply:

(a) The other display is located within the same commercial

complex which is zoned for commercial occupancy or use, but at a different business location from that for which the permit or license is sought.

(b) The other display is not owned or controlled by the permit applicant, and the permit applicant is not the agent of the person who owns or controls the other display.

SEC. 5. Section 5498.2 is added to the Business and Professions Code, to read:

5498.2. (a) During the amortization period for a nonconforming legally in place on-premises advertising display's continued use, a city or county may not deny, refuse to issue, or condition the issuance of a permit for modification or alteration to the display upon change of ownership of any existing business if the modification or alteration does not include a structural change in the display.

(b) Subdivision (a) of this section does not apply to any ordinance introduced or adopted prior to March 12, 1983, or adopted pursuant to subdivision (j) of Section 5497, if the ordinance contains no specific amortization schedule, but instead requires conformity upon change of ownership.

SEC. 6. Chapter 2.6 (commencing with Section 5499.1) is added to Division 3 of the Business and Professions Code, to read:

CHAPTER 2.6. ORDINANCES GOVERNING ON-PREMISE ADVERTISING DISPLAYS

5499.1. For purposes of this chapter only:

(a) "Illegal on-premises advertising display" means any of the following:

(1) An on-premises advertising display erected without first complying with all ordinances and regulations in effect at the time of its construction and erection or use.

(2) An on-premises advertising display that was legally erected, but whose use has ceased, or the structure upon which the display is placed has been abandoned by its owner, not maintained, or not used to identify or advertise an ongoing business for a period of not less than 90 days.

(3) An on-premises advertising display that was legally erected which later became nonconforming as a result of the adoption of an ordinance, the amortization period for the display provided by the ordinance rendering the display nonconforming has expired, and conformance has not been accomplished.

(4) An on-premises advertising display which is a danger to the public or is unsafe.

(5) An on-premises advertising display which is a traffic hazard not created by relocation of streets or highways or by acts of the city or county.

(b) "On-premises advertising display" means any structure, housing, sign, device, figure, statuary, painting, display, message placard, or other contrivance, or any part thereof, which is designed,

constructed, created, engineered, intended, or used to advertise, or to provide data or information in the nature of advertising, for any of the following purposes:

(1) To designate, identify, or indicate the name of the business of the owner or occupant of the premises upon which the advertising display is located.

(2) To advertise the business conducted, services available or rendered, or the goods produced, sold, or available for sale, upon the property where the advertising display is erected.

(c) "Enforcement officer" means the public employee or officer designated by the legislative body of the city or county to perform the duties imposed by this chapter on the enforcement officer.

5499.2. (a) The legislative body of a city or county may declare, by resolution, as public nuisances and abate all illegal on-premises advertising displays located within its jurisdiction. The resolution shall describe the property upon which or in front of which the nuisance exists by giving its lot and block number according to the county or city assessment map and its street address if known. Any number of parcels of private property may be included in one resolution.

(b) Prior to adoption of the resolution by the legislative body, the clerk of the legislative body shall send not less than a 10 days' written notice to all persons owning property described in the proposed resolution. The notice shall be mailed to each person on whom the described property is assessed on the last equalized assessment roll available on the date the notice is prepared. The notice shall state the date, time, and place of the hearing and generally describe the purpose of the hearing and the nature of the illegality of the display.

5499.3. After adoption of the resolution, the enforcement officer shall cause notices to be conspicuously posted on or in front of the property on or in front of which the display exists.

5499.4. The notice shall be substantially in the following form:

NOTICE TO REMOVE ILLEGAL ADVERTISING DISPLAY

Notice is hereby given that on the _____ day of _____, 19____, the (name of the legislative body) of (city or county) adopted a resolution declaring that an illegal advertising display is located upon or in front of this property which constitutes a public nuisance and must be abated by the removal of the illegal display. Otherwise, it will be removed, and the nuisance abated by the city (or county). The cost of removal will be assessed upon the property from or in front of which the display is removed and will constitute a lien upon the property until paid. Reference is hereby made to the resolution for further particulars. A copy of this resolution is on file in the office of the city (or county) clerk.

All property owners having any objection to the proposed removal of the display are hereby notified to attend a meeting of the (name of the legislative body) of (city or county) to be held (give date,

time, and place), when their objections will be heard and given due consideration.

Dated this _____ day of _____, 19__

_____

(Title)

(City or County of _____)

5499.5. The notices shall be posted at least 10 days prior to the time for hearing objections by the legislative body of the city or county.

5499.6. In addition to posting notice of the resolution and notice of the meeting when objections will be heard, the legislative body of the city or county shall direct its clerk to mail written notice of the proposed abatement to all persons owning property described in the resolution. The clerk shall cause the written notice to be mailed to each person on whom the described property is assessed in the last equalized assessment roll available on the date the resolution was adopted by the legislative body.

In cities where the county assessor performs the functions of the city assessor, the county assessor, at the request of the city clerk, shall, within 10 days thereafter, mail to the city clerk a list of the names and addresses of all of the persons owning property described in the resolution. The address of the owners shown on the assessment roll is conclusively deemed to be the proper address for the purpose of mailing the notice. The city shall reimburse the county for the actual cost of furnishing the list, and the cost shall be a part of the costs of abatement.

The notices mailed by the clerk shall be mailed at least 10 days prior to the time for hearing objections by the legislative body.

The notices mailed by the clerk shall be substantially in the form provided by Section 5499.4.

5499.7. At the time stated in the notices, the legislative body of the city or county shall hear and consider all objections to the proposed removal of the on-premises advertising display. It may continue the hearing from time to time. By motion or resolution at the conclusion of the hearing, the legislative body shall allow or overrule any objections. At that time, the legislative body acquires jurisdiction to proceed and perform the work of removal.

The decision of the legislative body is final. If objections have not been made or after the legislative body has disposed of those made, it shall order the enforcement officer to abate the nuisance by having the display removed. The order shall be made by motion or resolution.

5499.8. The enforcement officer may enter private property to abate the nuisance.

5499.9. Before the enforcement officer arrives, any property owner may remove the illegal on-premises advertising display at the owner's own expense.

Nevertheless, in any case in which an order to abate is issued, the

legislative body of the city or county, by motion or resolution, may further order that a special assessment and lien shall be limited to the costs incurred by the city or county, as the case may be, in enforcing abatement upon the property, including investigation, boundary determination, measurement, clerical, and other related costs.

5499.10. (a) The enforcement officer shall keep an account of the cost of abatement of an illegal on-premises advertising display in front of or on each separate parcel of property where the work is done by him or her. He or she shall submit to the legislative body of the city or county for confirmation an itemized written report showing that cost.

(b) A copy of the report shall be posted for at least three days, prior to its submission to the legislative body, on or near the chamber door of the legislative body, with notice of the time of submission.

(c) At the time fixed for receiving and considering the report, the legislative body shall hear it with any objections of the property owners liable to be assessed for the abatement. It may modify the report if it is deemed necessary. The legislative body shall then confirm the report by motion or resolution.

5499.11. Abatement of the nuisance may, in the discretion of the legislative body of the city or county, be performed by contract awarded by the legislative body on the basis of competitive bids let to the lowest responsible bidder. In that event, the contractor shall keep the account and submit the itemized written report for each separate parcel of property required by Section 5499.10.

5499.12. (a) The cost of abatement in front of or upon each parcel of property, and the cost incurred by the city or county, as the case may be, in enforcing abatement upon the parcels, including investigation, boundary determination, measurement, clerical, and other related costs, are a special assessment against that parcel. After the assessment is made and confirmed, a lien attaches on the parcel upon recordation of the order confirming the assessment in the office of the county recorder of the county in which the property is situated. However, if any real property to which the lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the assessment would become delinquent, the lien which would otherwise be imposed by this section shall not attach to the real property and the costs of abatement and the costs of enforcing abatement, as confirmed, relating to the property shall be transferred to the unsecured roll for collection.

(b) After confirmation of the report, a copy shall be given to the city or county assessor and the tax collector, who shall add the amount of the assessment to the next regular tax bill levied against the parcel for municipal purposes.

(c) If the county assessor and the tax collector assess property and collect taxes for the city, the city shall file a certified copy of the report with the county auditor on or before August 10. The

description of the parcels reported shall be those used for the same parcels on the county assessor's map books for the current year.

(d) The county auditor shall enter each assessment on the county tax roll opposite the parcel of land.

(e) The amount of the assessment shall be collected at the time and in the manner of ordinary municipal taxes. If delinquent, the amount is subject to the same penalties and procedures of foreclosure and sale provided for ordinary municipal taxes.

The legislative body may determine that, in lieu of collecting the entire assessment at the time and in the manner of ordinary municipal taxes, assessments of fifty dollars ($50) or more may be made in annual installments, not to exceed five, and collected one installment at a time at the time and in the manner of ordinary municipal taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedure for foreclosure and sale provided for ordinary municipal taxes. The payment of assessments so deferred shall bear interest on the unpaid balance at a rate to be determined by the legislative body, but not to exceed 6 percent per annum.

(f) As an alternative method, the county tax collector, at his or her discretion, may collect the assessments without reference to the general taxes by issuing separate bills and receipts for the assessments.

(g) Laws relating to the levy, collection, and enforcement of county taxes apply to these special assessments.

(h) The lien of the assessment has the priority of the taxes with which it is collected.

5499.13. The enforcement officer may receive the amount due on the abatement cost and issue receipts at any time after the confirmation of the report and until 10 days before a copy is given to the assessor and tax collector or, where a certified copy is filed with the county auditor, until August 1 following the confirmation of the report.

5499.14. The legislative body of the city or county may order a refund of all or part of an assessment pursuant to this chapter if it finds that all or part of the assessment has been erroneously levied. An assessment, or part thereof, shall not be refunded unless a claim is filed with the clerk of the legislative body on or before November 1 after the assessment became due and payable. The claim shall be verified by the person who paid the assessment or by the person's guardian, conservator, executor, or administrator.

5499.15. If the legislative body finds that property damage was caused by the negligence of a city or county officer or employee in connection with the abatement of a nuisance pursuant to this chapter, a claim for those damages may be paid from the city or county general fund.

5499.16. The proceedings provided by this chapter are an alternative to any procedure established by ordinance pursuant to any other provision of law.

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 1282

An act to add Section 2873.7 to the Business and Professions Code, and to amend Sections 1250, 1250.1, 1254, 15026, and 15095 of, and to add and repeal Section 1267.10 of, the Health and Safety Code, relating to health, and making an appropriation therefor.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 2873.7 is added to the Business and Professions Code, to read:

2873.7. The Department of Corrections and the Department of the Youth Authority shall jointly study, in consultation with the Board of Registered Nurses, the Board of Vocational Nurses and Psychiatric Technician Examiners, the State Department of Health Services, the Emergency Medical Services Authority, and the professional associations representing registered nurses, medical technical assistants, licensed vocational nurses, and emergency medical technicians, the difficulties in recruitment and retention of medical technical assistants and registered nurses.

The study shall be completed on or before January 1, 1989.

SEC. 2. 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 15 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.

(i) "Congregate living health facility" means a residential home with a capacity of no more than six beds, which provides inpatient care to mentally alert, physically disabled residents, who may be ventilator dependent, and which provides the following basic services: medical supervision, 24-hour skilled nursing and supportive care to residents, including ventilator assisted or dependent residents, all of whom would otherwise require long-term institutional care without this licensure classification and who no longer require care in an acute care facility, as determined by their physicians.

(j) (1) "Correctional treatment center" means a health facility operated by the Department of Corrections, the Department of the Youth Authority, or a county, city, or city and county law enforcement agency which, as determined by the state department, provides outpatient health services, in addition to inpatient health services, to that portion of the inmate population who do not require a general acute care level of basic services. This definition shall not apply to those areas of a city, county, or city and county law enforcement facility which houses inmates or wards that may be receiving outpatient services and are housed separately for reasons of security and protection. The health services provided by a correctional treatment center shall include, but are not limited to, all of the following basic services: physician, psychiatrist, psychologist, nursing, pharmacy, dental, and dietary. A correctional treatment center may provide the following services: laboratory, radiology, perinatal, and any other services approved by the state department.

(2) Outpatient surgical care with anesthesia may be provided, if the correctional treatment center meets the same requirements as a surgical clinic licensed pursuant to Section 1204, with the exception of the requirement that patients remain less than 24 hours.

(3) Correctional treatment centers shall maintain written service agreements with general acute care hospitals to provide for those inmate physical health needs that cannot be met by the correctional treatment center.

Each health care facility in the Department of Corrections and in the Department of the Youth Authority shall have a medical director in charge of the health care services of that facility who shall be a physician and surgeon licensed to practice in California and who shall be appointed by the directors of the departments. The medical director shall direct the medical treatment programs for all health services and services supporting the health services provided in the facility.

No person shall be admitted or accepted for care or discharge by a correctional treatment facility except upon the order of a physician

and surgeon. All persons admitted or accepted for care by the correctional treatment facility shall be under the care of a physician and surgeon.

(4) Physician and surgeon services shall be readily available in a correctional treatment center on a 24-hour basis.

(5) It is not the intent of the Legislature to have a correctional treatment center supplant the facilities at the California Medical Facility, the California Men's Colony, and the California Institution for Men which were in the process of licensure in 1987.

(6) This subdivision shall remain operative only until January 1, 1993.

SEC. 2.5. 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 15 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.

(i) "Congregate living health facility" means a residential home with a capacity of no more than six beds, which provides inpatient care to mentally alert, physically disabled residents, who may be ventilator dependent, and which provides the following basic services: medical supervision, 24-hour skilled nursing and supportive care to residents, including ventilator assisted or dependent residents, all of whom would otherwise require long-term institutional care without this licensure classification and who no longer require care in an acute care facility, as determined by their physicians.

(j) (1) "Correctional treatment center" means a health facility operated by the Department of Corrections, the Department of the Youth Authority, or a county, city, or city and county law enforcement agency which, as determined by the state department, provides outpatient health services, in addition to inpatient health

services, to that portion of the inmate population who do not require a general acute care level of basic services. This definition shall not apply to those areas of a city, county, or city and county law enforcement facility which houses inmates or wards that may be receiving outpatient services and are housed separately for reasons of security and protection. The health services provided by a correctional treatment center shall include, but are not limited to, all of the following basic services: physician, psychiatrist, psychologist, nursing, pharmacy, dental, and dietary. A correctional treatment center may provide the following services: laboratory, radiology, perinatal, and any other services approved by the state department.

(2) Outpatient surgical care with anesthesia may be provided, if the correctional treatment center meets the same requirements as a surgical clinic licensed pursuant to Section 1204, with the exception of the requirement that patients remain less than 24 hours.

(3) Correctional treatment centers shall maintain written service agreements with general acute care hospitals to provide for those inmate physical health needs that cannot be met by the correctional treatment center.

Each health care facility in the Department of Corrections and in the Department of the Youth Authority shall have a medical director in charge of the health care services of that facility who shall be a physician and surgeon licensed to practice in California and who shall be appointed by the directors of the departments. The medical director shall direct the medical treatment programs for all health services and services supporting the health services provided in the facility.

No person shall be admitted or accepted for care or discharge by a correctional treatment facility except upon the order of a physician and surgeon. All persons admitted or accepted for care by the correctional treatment facility shall be under the care of a physician and surgeon.

(4) Physician and surgeon services shall be readily available in a correctional treatment center on a 24-hour basis.

(5) It is not the intent of the Legislature to have a correctional treatment center supplant the facilities at the California Medical Facility, the California Men's Colony, and the California Institution for Men which were in the process of licensure in 1987.

(6) This subdivision shall remain operative only until January 1, 1993.

(k) "Hospice acute inpatient facility" means a health facility, which is a component part of a hospice as defined in Section 1339.41, which provides general inpatient care, as defined in federal Medicare program regulations adopted pursuant to Section 1861(dd)(2) and Section 1814(a)(8) of the federal Social Security Act, and which has a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which performs or provides 24-hour inpatient care, whose primary goal is pain control and symptom management for

the terminally ill, including all of the following basic services, as defined in Section 1339.42: medical, nursing, dietary, pharmacy, clinical laboratory, radiology, inhalation therapy, physical therapy, occupational therapy, speech therapy, psychosocial therapy, and spiritual care.

SEC. 3. Section 1250.1 of the Health and Safety Code is amended to read:

1250.1. The state department shall adopt regulations which define all of the following bed classifications for health facilities:

(a) General acute care.

(b) Skilled nursing.

(c) Intermediate care-developmental disabilities.

(d) Intermediate care-other.

(e) Acute psychiatric.

(f) Specialized care, with respect to special hospitals only.

(g) Chemical dependency recovery.

(h) Intermediate care facility/developmentally disabled habilitative.

(i) Intermediate care facility/developmentally disabled nursing.

(j) Congregate living health facility.

(k) Correctional treatment center. For correctional treatment centers that provide psychiatric services provided by county mental health agencies in local detention facilities, the State Department of Mental Health shall adopt regulations specifying acute and nonacute levels of 24-hour care. This subdivision shall remain operative only until January 1, 1993.

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.

Licensed inpatient beds in a correctional treatment center shall be used only for the purpose of providing health services. This paragraph shall remain operative only until January 1, 1993.

SEC. 4. Section 1254 of the Health and Safety Code is amended to read:

1254. (a) The state department shall inspect and license health facilities. The state department shall license health facilities to provide their respective basic services specified in Section 1250. Except as provided in Section 1253, the state department shall inspect and approve a general acute care hospital to provide special services as specified in Section 1255. The state department shall develop and adopt regulations to implement the provisions contained in this section.

(b) Upon approval, the state department shall issue a separate license for the provision of the basic services enumerated in subdivision (c) or (d) of Section 1250 whenever these basic services are to be provided by an acute care hospital, as defined in subdivision (a), (b), or (f) of that section, where the services enumerated in subdivision (c) or (d) of Section 1250 are to be provided in any separate freestanding facility, whether or not the location of the separate freestanding facility is contiguous to the acute care hospital. The same requirement shall apply to any new freestanding facility constructed for the purpose of providing basic services, as defined in subdivision (c) or (d) of Section 1250, by any acute care hospital on or after January 1, 1984.

(c) (1) Those beds licensed to an acute care hospital which, prior to January 1, 1984, were separate freestanding beds and were not part of the physical structure licensed to provide acute care, and which beds were licensed to provide those services enumerated in subdivision (c) or (d) of Section 1250, are exempt from the requirements of subdivision (b).

(2) All beds licensed to an acute care hospital and located within the physical structure in which acute care is provided are exempt from the requirements of subdivision (b) irrespective of the date of original licensure of the beds, or the licensed category of the beds.

(3) All beds licensed to an acute care hospital owned and operated by the State of California or any other public agency are exempt from the requirements of subdivision (b).

(4) All beds licensed to an acute care hospital in a rural area as defined by Chapter 1010, of the Statutes of 1982, are exempt from the requirements of subdivision (b), except where there is a freestanding skilled nursing facility or intermediate care facility which has experienced an occupancy rate of 95 percent or less during the past 12 months within a 25-mile radius or which may be reached within 30 minutes using a motor vehicle.

(5) All beds licensed to an acute care hospital which meet the criteria for designation within peer group six or eight, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982, and published by the California Health Facilities Commission, and all beds in hospitals which have fewer than 76 licensed acute care beds and which are located in a Census Designation Place of 15,000 or less population, are exempt from the requirements of subdivision (b), except where there is a free-standing skilled nursing facility or intermediate care facility which has experienced an occupancy rate of 95 percent or less during the past 12 months within a 25-mile radius or which may be reached within 30 minutes using a motor vehicle.

(6) All beds licensed to an acute care hospital which has had a certificate of need approved by a health systems agency on or before July 1, 1983, are exempt from the requirements of subdivision (b).

(7) All beds licensed to an acute care hospital are exempt from the requirements of subdivision (b), if reimbursement from the

Medi-Cal program for beds licensed for the provision of services enumerated in subdivision (c) or (d) of Section 1250 and not otherwise exempt does not exceed the reimbursement which would be received if the beds were in a separately licensed facility.

(d) Except as provided in Section 1253, the state department shall inspect and approve a general acute care hospital to provide special services as specified in Section 1255. The state department shall develop and adopt regulations to implement the provisions contained in this section.

SEC. 5. Section 1267.10 is added to the Health and Safety Code, to read:

1267.10. (a) The state department, in conjunction with the Office of Statewide Health Planning and Development and in consultation with the Department of Corrections, the Department of the Youth Authority, and the State Department of Mental Health, shall develop and adopt licensure regulations for correctional treatment centers, as defined in subdivision (j) of Section 1250. The regulations shall be submitted for review by the Assembly Health Committee, the Senate Health and Human Services Committee, the Joint Legislative Committee on Prison Construction and Operation and the Joint Legislative Budget Committee 60 days prior to adoption. These regulations shall prescribe standards, based on the need of the inmate population, of adequacy, safety, and sanitation of the physical plant, staffing with duly licensed personnel, and services. The regulations shall prescribe a standard of care commensurate with community standards of practice applicable to the private sector health care delivery system in California. The department shall include with the regulations submitted for review during the public hearing required before adoption of regulations and for review by the legislative committees a list of differences between the requirements for license of a correctional treatment center and the requirements for license as an acute care general hospital, including any special services or supplemental services, as appropriate. The list shall also include a rationale for the differences and the effect on services.

Correctional treatment center regulations shall be developed with assistance from the California Conference of Local Health Officers, the Conference of Local Mental Health Directors, the California Conference of Directors of Environmental Health, the Board of Corrections, and the California State Sheriffs' Association. In developing the regulations, the state department and the State Department of Mental Health shall be guided by the need to provide safe and adequate medical care in a prison health facility where there is also a need to maintain integrity of the security of the correctional institution as determined by the Director of Corrections.

(b) The Maternal and Child Health Branch of the state department shall monitor and evaluate the standards and protocols of perinatal care utilized by the state department for the treatment of pregnant prisoners or inmates.

The state department shall report on these standards and protocols of perinatal care to the Legislature including submission of reports to the Chairpersons of the Senate Health and Human Services and Assembly Health Committees, as well as the Chairperson of the Joint Legislative Committee on Prison Construction and Operation, on or before June 1, 1988, and annually thereafter.

(c) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute which is chaptered prior to January 1, 1993, deletes or extends that date.

SEC. 6. Section 15026 of the Health and Safety Code is amended to read:

15026. (a) (1) "Hospital building" includes any building not specified in subdivision (b) which is used, or designed to be used, for a health facility of a type required to be licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.

(2) Hospital building includes a correctional treatment center, as defined in subdivision (j) of Section 1250, the construction of which was completed on or after March 7, 1973. This paragraph shall remain operative only until January 1, 1993.

(b) "Hospital building" does not include any of the following:

(1) Any building in which only outpatient clinic services are provided and which is separated from a building in which hospital services are provided.

(2) Any building used, or designed to be used, for a skilled nursing facility or intermediate care facility if the building is of single-story, wood-frame or light steel frame construction.

(3) Any building of single-story, wood-frame or light steel frame construction in which only skilled nursing or intermediate care services are provided if the building is separated from a building housing other patients of the health facility receiving higher levels of care.

(4) Any freestanding structures of a chemical dependency recovery hospital exempted under the provisions of subdivision (c) of Section 1275.2.

(5) Any building licensed to be used as an intermediate care facility/developmentally disabled habilitative with six beds or less and any intermediate care facility/developmentally disabled habilitative of 7 to 15 beds which is a single-story, wood-frame or light steel frame building.

(6) Any building which has been used as a community care facility licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 and which was originally licensed to provide that level of care prior to March 7, 1973, if (A) the building complied with applicable building and safety standards at the time of that licensure, (B) the Director of Health Services, upon application, determines that in order to continue to properly serve the facility's existing client population, relicensure as an intermediate care facility/developmentally disabled will be required, and (C) a notice of intent to obtain a certificate of need was filed with the area health

planning agency and the Office of Statewide Health Planning and Development on or before March 1, 1983. The exemption provided in this paragraph extends only to use of the building as an intermediate care facility/developmentally disabled.

(7) Any building which has been used as a community care facility pursuant to paragraph (1) or (2) of subdivision (a) of Section 1502 and which was originally licensed to provide that level of care if all of the following conditions are satisfied:

(A) The building complied with applicable building and safety standards for a community care facility at the time of that licensure.

(B) The facility conforms to the 1973 Edition of the Uniform Building Code of the International Conference of Building Officials as a community care facility.

(C) The facility is other than single story, but no more than two stories, and the upper story is licensed for ambulatory patients only.

(D) A certificate of need was granted prior to July 1, 1983, for conversion of a community care facility to an intermediate care facility.

(E) The facility otherwise meets all nonstructural construction standards for intermediate care facilities in existence on the effective date of this act or obtains waivers from the appropriate agency.

The exemption provided in this paragraph extends only to use of the building as an intermediate care facility as defined in subdivision (d) of Section 1250 and the facility is in Health Facilities Planning Area 1420.

(8) Any building licensed as a correctional treatment center, as defined in subdivision (j) of Section 1250, the construction of which was completed prior to March 7, 1973. This paragraph shall remain operative only until January 1, 1993.

SEC. 7. Section 15095 of the Health and Safety Code is amended to read:

15095. (a) Any person who violates any provision of this chapter is guilty of a misdemeanor.

(b) This section shall not apply to correctional treatment centers. This subdivision shall not affect any civil or administrative liability against correctional treatment centers or persons employed by these centers. This subdivision shall remain operative only until January 1, 1993.

SEC. 8. There is hereby appropriated from the General Fund to the State Department of Health Services the sum of one hundred thirty-six thousand dollars ($136,000) for carrying out its duties under this act.

SEC. 9. Section 2.5 of this bill incorporates amendments to Section 1250 of the Health and Safety Code proposed by both this bill and SB 309. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1988, (2) each bill amends Section 1250 of the Health and Safety Code, and (3) this bill is enacted after SB 309, in which case Section 2 of this bill 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 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.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1283

An act relating to education, and making an appropriation therefor.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987]

I am deleting the $500,000 appropriation contained in Section 2 of Assembly Bill No 974.

This bill would appropriate $500,000 from the General Fund to the Regents of The University of California for the purpose of conducting research relating to the effect of lifestyle changes on coronary heart disease.

This bill would make legislative findings and declarations regarding coronary heart disease and a study being conducted at the Preventive Medicine Research Institute of the School of Medicine, University of California, San Francisco, and at Pacific Presbyterian Medical Center, and would find that funds are needed to complete this research

The demands placed on budget resources require all of us to set priorities The budget enacted in July, 1987 appropriated nearly $41 billion in state funds. This amount is more than adequate to provide the necessary essential services provided for by State Government. It is not necessary to put additional pressure on taxpayer funds for programs that fall beyond the priorities currently provided.

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties.

I would, however, consider funding the provisions of this bill during the budget process for Fiscal Year 1988–89. It is appropriate to review the relative merits of this program in comparison to all other funding projects. The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit

With this deletion, I approve Assembly Bill No. 974

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:

Coronary heart disease (CHD) is still the leading cause of death

and disability in the United States and in the rest of the industrialized world. More Americans die of heart and blood vessel diseases than all other illnesses combined, despite increasing evidence that coronary heart disease may be completely preventable for most people.

Current methods of treating coronary heart disease, drugs and surgery, may be effective temporarily and even lifesaving in some cases, but they do not address the lifestyle factors which are the underlying causes of the disease.

Coronary artery bypass surgery is one of the fastest-growing surgical procedures. Last year over five billion dollars ($5,000,000,000) were spent on this procedure, and at the current rates of growth (which the economy cannot sustain), it would be a one hundred billion dollars ($100,000,000,000) per year industry within 15 years.

Increasing evidence links lifestyle factors such as diet, smoking, emotional stress, and lack of exercise with coronary heart disease. Changing these factors will reverse coronary heart disease in animals, but this has not yet been shown in humans because the technology has not been precise enough to measure changes in living humans and the lifestyle changes have not been comprehensive enough.

A pioneering study is being conducted at the Preventive Medicine Research Institute of the School of Medicine, University of California, San Francisco, and at Pacific Presbyterian Medical Center. The study is the first randomized, controlled clinical trial to determine if a program of diet, stress management training, smoking cessation, and exercise can reverse coronary heart disease without drugs or surgery.

Technological breakthroughs make it possible to determine if a comprehensive lifestyle change program can reverse coronary heart disease without using drugs or surgery. State-of-the-art cardiology tests such as quantitative coronary angiography and cardiac Position Emission Tomography (PET scans) now make it possible to precisely measure the extent of coronary heart disease and thus the changes that result from changing lifestyle.

The precision of these methods greatly reduces the sample size requirements, the degree of change required to detect significant differences, and the required length of the intervention. Thus, the cost to find out this vital information is greatly reduced.

In order to continue this study and obtain vital information which is so critical to the health of our state, funds are needed to complete this research.

SEC. 2. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund to the Regents of the University of California for the purposes of conducting research relating to the effect of lifestyle changes on coronary heart disease.

CHAPTER 1284

An act to amend Section 1085.5 of the Code of Civil Procedure, to amend Sections 5051, 5052, 5054, and 5064 of, to repeal Section 5053 of, and to amend, add, and repeal Sections 14006 of, the Food and Agricultural Code, to amend, add, and repeal Section 21080.5 of the Public Resources Code, and to amend Section 3 of Chapter 1282 of the Statutes of 1985, relating to pest control.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987.]

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

SECTION 1. Section 1085.5 of the Code of Civil Procedure is amended 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 of Food and Agriculture under Division 4 (commencing with Section 5001) or 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 that code.

SEC. 2. Section 5051 of the Food and Agricultural Code is amended to read:

5051. Whenever the director exercises authority on an 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 45 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. The director shall use nonpesticide alternatives in an eradication project to the maximum extent feasible. The decision of the director shall include written findings of fact as to each element of the decision including use or nonuse of the nonpesticide alternatives.

SEC. 3. Section 5052 of the Food and Agricultural Code is amended to read:

5052. Within 45 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 45 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.

SEC. 4. Section 5053 of the Food and Agricultural Code is repealed.

SEC. 5. Section 5054 of the Food and Agricultural Code is amended to read:

5054. It is not 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 Division 5 (commencing with Section 9101), Division 6 (commencing with Section 11401), and Division 7 (commencing with Section 12501), provided that nothing in this section limits review of a decision of the director to proceed with an eradication project.

SEC. 6. Section 5064 of the Food and Agricultural Code is amended to read:

5064. This chapter shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

SEC. 7. Section 14006 of the Food and Agricultural Code, as amended by Section 2 of Chapter 1282 of the Statutes of 1985, 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, 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. 8. Section 14006 is added to the Food and Agricultural Code, 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. This 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. They 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 become operative on January 1, 1991.

SEC. 9. Section 14006 of the Food and Agricultural Code, as amended by Section 13.5 of Chapter 1276 of the Statutes of 1971, is repealed.

SEC. 10. Section 21080.5 of the Public Resources Code, as amended by Section 4 of Chapter 20 of the Statutes of 1986, 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 a plant or animal pest.

(*l*) 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. 11. Section 21080.5 is added to the Public Resources Code, 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 the agency of a nonattainment area plan shall be subject to this section only if, and to the extent that, the approval adopts or amends rules or regulations.

(k) This section shall become operative on January 1, 1991.

SEC. 12. Section 21080.5 of the Public Resources Code, as amended by Section 1 of Chapter 58 of the Statutes of 1982, is repealed.

SEC. 13. Section 3 of Chapter 1282 of the Statutes of 1985 is amended to read:

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, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes of extends that date.

CHAPTER 1285

An act to add Sections 12678.1, 12678.2, and 12678.3 to the Water Code, relating to flood protection.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987.]

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

SECTION 1. Section 12678.1 is added to the Water Code, to read:

12678.1. The project for flood control on the Santa Ana River Mainstem, including Santiago Creek and Oak Street Drain, is adopted and authorized substantially in accordance with the recommendations of the Chief of Engineers Conference Report No. 99-1013 99th Congress, as adopted and authorized by the act of Congress approved October 17, 1986 (Public Law 99-662, the Water Resources Development Act of 1986), at an estimated cost to the state of the sum that may be appropriated for state cooperation by the Legislature upon the recommendation and advice of the department.

SEC. 2. Section 12678.2 is added to the Water Code, to read:

12678.2. The Orange County Flood Control District, the Riverside County Flood Control and Water Conservation District, and the San Bernardino County Flood Control District shall give assurances satisfactory to the Secretary of the Army that the local cooperation required by the Water Resources Development Act of 1986 (Public Law 99-662) will be furnished by the districts in connection with the project for flood control adopted and authorized in Section 12678.1.

SEC. 3. Section 12678.3 is added to the Water Code, to read:

12678.3. The Orange County Flood Control District, the Riverside County Flood Control and Water Conservation District, and the San Bernardino County Flood Control District, in conjunction with the Department of the Army, shall execute the plans and projects referred to in Section 12678.1, may exercise all powers granted to them in the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), the Riverside County Flood Control and Water Conservation District Act (Chapter 1122 of the Statutes of 1945), and the San Bernardino County Flood Control Act (Chapter 73 of the Statutes of 1939), respectively, and may make modifications and amendments to the plans as may be necessary to execute them for purposes of Chapter 1 (commencing with Section 12570) and this chapter.

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.

CHAPTER 1286

An act to amend Sections 15373.2 and 15373.8 of, and to add Chapter 2.5 (commencing with Section 16265) to Part 1.5 of Division 4 of Title 2 to, the Government Code, to add Section 21080.08 to the Public Resources Code, and to repeal Section 32.50 of Chapter 135 of the Statutes of 1987, relating to public finance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987.]

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

SECTION 1. Section 15373.2 of the Government Code is amended to read:

15373.2. (a) In order to carry out the provisions of this chapter, there is hereby created in the State Treasury the Rural Economic Development Fund.

(b) The fund shall receive state funds appropriated to it, repayment of loans and interest on those loans pursuant to this chapter, interest which accrues to the moneys in the fund pursuant to subdivision (c), fees or charges pursuant to subdivision (d), and penalties prescribed by the panel.

(c) (1) The Treasurer shall invest moneys contained in the fund not needed to meet current obligations in the same manner as other public funds are invested. The moneys resulting from this investment shall be used to support the three rural small business assistance and development centers previously established through the department and the Employment Development Department. The department shall grant these interest moneys to the centers upon request to provide for the continued operation of the centers.

(2) If sufficient interest moneys are not available at a time when the centers require additional funds, the department shall lend the centers necessary funds from the Rural Economic Development Fund, if the expected interest earnings from the fund will repay the loans. Funds received under this subdivision shall not be considered when the department reviews and approves applications pursuant to Article 4 (commencing with Section 15397.3). Each center shall receive a maximum of one hundred thousand dollars ($100,000) each fiscal year.

(3) Interest earnings in excess of three hundred thousand dollars ($300,000) per fiscal year shall be available for expenditure by the department pursuant to this chapter. Those expenditures shall include the costs associated with the provision of ongoing legal counsel to the Infrastructure Review Panel, created pursuant to Article 5 (commencing with Section 15373.6) and reimbursement of expenses incurred by designated panel members while in the

conduct of official panel business. The interest earnings may also be used by the department for administrative support and local assistance costs of activities consistent with the purposes of this chapter.

(d) In order to defray costs to the department for administration of Article 5 (commencing with Section 15373.6), the department may impose reasonable charges on all applications, and approved loans. The department may use these fees or other charges for those costs necessary to protect the state's position as a lender-creditor. These costs include, but are not limited to, foreclosure expenses, auction fees, title searches, appraisals, real estate brokerage fees, removal and storage for repossessed equipment and inventory, and additional expenditures to purchase a senior lien in foreclosure or bankruptcy proceedings.

(e) Notwithstanding Section 13340, all moneys in the fund are continuously appropriated to, and shall remain available for expenditure by, the department for the purposes of this chapter only until July 1, 1991, and on that date any remaining funds shall revert to the Special Account for Capital Outlay.

(f) No money in the fund shall be used in lieu of any existing state infrastructure financing program, including, but not limited to, the State Transportation Improvement Program or the Clean Water Bond Program.

SEC. 2. Section 15373.8 of the Government Code is amended to read:

15373.8. (a) (1) The panel shall meet regularly to conduct its business and to review and approve projects pursuant to this article for funding from the Rural Economic Development Fund. The panel shall make a decision on any application within 90 days after a local agency submits the application to the department. This financing shall be in the form of loans and grants.

(A) Loans shall be limited to a maximum of one million dollars ($1,000,000) per project. The terms of any approved loan shall be specified in a loan agreement between the local agency and the panel. Repayment of loans shall begin within nine months of the date of the loan and shall be made quarterly. Each loan shall be for a term not to exceed 10 years from the date of the loan. The local agency shall pay interest at a rate specified in the loan agreement which shall not exceed 2 percent less than the rate earned by the State Surplus Money Investment Fund. Penalties, if established by the panel, shall be uniformly applied. Any loan or grant approved for a local agency shall not be considered debt within the meaning of Section 18 of Article XVI of the California Constitution.

(B) Grants shall be limited to two hundred fifty thousand dollars ($250,000) per project and shall be made only if a local agency demonstrates an inability to repay a loan or similar extraordinary circumstances. In no event shall more than 10 percent of the available moneys in the fund in any fiscal year be allocated as grants.

(2) Subject to paragraph (3), a local agency which submits an

application pursuant to Section 15373.9 may, at the time the application is submitted, request the panel to approve a loan amount, term, interest rate, beginning payment, or frequency of repayment which differs from the requirements of paragraph (1). The panel may approve the request or may change and approve the request only if all of the following exist:

(A) The local agency provides sufficient documentation to the panel that the local agency or special district responsible for repaying the loan will be unable to repay a loan under the conditions specified in paragraph (1).

(B) The local agency provides sufficient documentation to the panel that other sources of financing which offer similar rates and terms to those determined by the panel to be affordable to the local agency or special district responsible for repaying the loan are unavailable or infeasible to finance the project.

(C) The loan is equal to or less than one million dollars ($1,000,000) or the loan is for more than one million dollars ($1,000,000) and the local agency provides sufficient documentation of special circumstances.

(3) The panel shall not approve a loan in an amount of more than two million dollars ($2,000,000), nor shall it approve a loan which provides for an indefinite deferral of the repayment of principal and interest, or for a term for more than 50 years. The panel shall make a decision on any request made pursuant to paragraph (2) at the time the panel makes a decision on the loan application.

(b) Loans and grants may be made to a local agency, and for projects which meet the criteria specified in Section 15373.9, for the purpose of assisting in financing public improvements, including, but not limited to, sewer and water facilities, streets, storm drains, bridges, and related costs, such as engineering design. Funds may be used for the development of new facilities, or the rehabilitation, alteration, expansion, or improvement of existing facilities.

(c) Preliminary design work, including a cost estimate for the project, shall be completed before a loan or grant is awarded. Costs for preliminary design work, project cost estimates, planning, preliminary engineering, and other costs necessary for preparation of the application may be reimbursed from a loan or grant, subject to approval by the panel.

(d) Any county which does not meet the definition of a county provided for under subdivision (a) of Section 15373.1 may apply for a loan or grant under this article only with respect to an unincorporated area outside of an urbanized area as designated by the United States Bureau of the Census from the 1980 federal census.

(e) Projects financed under this article shall meet all of the following requirements:

(1) Be associated with either an expansion, retention, relocation, or new location of an identified private sector firm. This firm shall be a manufacturing, service, research and development, production, assembly, warehousing, or industrial distribution facility.

Commercial business activity, as well as tourist and recreation facilities, which are found by the panel to significantly increase permanent private sector employment and substantially improve the economic prosperity of an area may also qualify the project.

(2) Directly lead to the creation or retention of permanent private sector jobs within the applicant's jurisdictional boundaries. Projects shall also create at least one full-time job for every fifty thousand dollars ($50,000) in loan funds received except in the case of research and development facilities in which the economic job creation standard shall be set by the panel.

(f) Priority shall be given to those projects which create jobs in communities with particularly high levels of unemployment and declining resource-based economics. Consideration shall be given to other community factors in awarding loans and grants, including, but not limited to, those communities which are facing local government fiscal crises, a high poverty rate, or which exhibit an active commitment to diversifying and expanding their economic base. To the extent possible, loans and grants shall be equitably distributed throughout the various rural regions of the state.

(g) Financing shall not be provided for projects which would result in increased production or availability of goods, materials, or services where sufficient capacity exists in the community to meet current and future demands.

(h) Loans or grants may not finance projects which would either effect the relocation of any substantial operations of the company from one area of the state to another, or result in the abandonment of any substantial operations of the company within other areas of the state, unless completion of the project or operation of the facility is reasonably necessary to prevent the relocation of any substantial operations of the company from an area within the state to an area outside the state.

(i) The proceeds of repayment of loan principal and the payment of interest prior to July 1, 1991, shall be deposited in the fund. The proceeds of repayment of loan principal and the payment of interest on and after July 1, 1991, shall be deposited in the Special Account for Capital Outlay.

SEC. 3. Chapter 2.5 (commencing with Section 16265) is added to Part 1.5 of Division 4 of Title 2 of the Government Code, to read:

CHAPTER 2.5. COUNTY REVENUE STABILIZATION

16265. This chapter shall be known and may be cited as the "Bergeson-Costa-Robbins-Nielsen County Revenue Stabilization Act of 1987."

16265.1. The Legislature finds and declares all of the following:

(a) The provision of basic social welfare, public health, and justice programs by counties is a matter of statewide interest.

(b) In some cases, the costs of these programs have grown more quickly than the counties' own general purpose revenues.

(c) A county should not be required to drastically divert its own general purpose revenues from other public programs in order to pay for basic social welfare, public health, and justice programs.

(d) California residents should not be denied the benefits of these programs because counties are hampered by a severe lack of funds for these purposes.

(e) Accordingly, it is the intent of the Legislature in enacting this chapter to protect the public peace, health, and safety by stabilizing counties' revenues.

16265.2. As used in this chapter:

(a) "County" means a county and a city and county.

(b) "County costs of eligible programs" means the amount of money other than federal and state funds, as reported by the State Department of Social Services to the Department of Finance or as derived from the Controller's "Annual Report of Financial Transactions Concerning Counties of California," that each county spends for each of the following:

(1) The Aid to Families with Dependent Children for Family Group and Unemployed Parents programs plus county administrative costs for each program minus the county's share of child support collections for each program, as described in Sections 10100, 10101, and 11250 of, and subdivisions (a) and (b) of Section 15200 of, the Welfare and Institutions Code.

(2) The county share of the cost of service provided for the In-Home Supportive Services Program, as described in Section 10100, 10101, and 12306 of the Welfare and Institutions Code.

(3) The community mental health program, as described in Section 5705 of the Welfare and Institutions Code.

(4) The county share of the food stamp program, as described in Section 18906.5 of the Welfare and Institutions Code.

(c) "County costs of justice programs" means the amount of money other than federal and state funds, as reported in the Controller's "Annual Report of Financial Transactions Concerning Counties of California," that each county spends for each of the following:

(1) Municipal and superior courts.

(2) District attorney.

(3) Public defender.

(4) Probation.

(5) Correctional facilities.

"County costs of justice programs" does not include any costs eligible for reimbursement to the county pursuant to Chapter 3 (commencing with Section 15200) of Part 6 of Division 3.

(d) "General purpose revenues" means revenues received by a county whose purpose is not restricted by state law to a particular purpose or program, as reported in the Controller's "Annual Report of Financial Transactions Concerning Counties of California." "General purpose revenues" are limited to all of the following:

(1) Property tax revenues, exclusive of those revenues dedicated

to repay voter approved indebtedness, received pursuant to Part 0.5 (commencing with Section 50) of Division 1 of the Revenue and Taxation Code, or received pursuant to Section 33401 of the Health and Safety Code.

(2) Sales tax revenues received pursuant to Part 1 (commencing the Section 6001) of Division 2 of the Revenue and Taxation Code.

(3) Any other taxes levied by a county.

(4) Fines and forfeitures.

(5) Licenses, permits, and franchises.

(6) Revenue derived from the use of money and property.

(7) Vehicle license fees received pursuant to Section 11005 of the Revenue and Taxation Code.

(8) Trailer coach fees received pursuant to Section 11003.3 of the Revenue and Taxation Code.

(9) Revenues from cigarette taxes received pursuant to Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code.

(10) Revenue received as open-space subventions pursuant to Chapter 3 (commencing with Section 16140) of Part 1.

(11) Revenue received as homeowners' property tax exemption subventions pursuant to Chapter 2 (commencing with Section 16120) of Part 1.

(12) General revenue sharing funds received from the federal government.

"General purpose revenues" does not include revenues received by a county pursuant to Chapter 3 (commencing with Section 15200) of Part 6 of Division 3.

16265.3. (a) On or before October 31, 1988, the Director of Finance shall:

(1) Determine for each county the county costs of eligible programs and each county's general purpose revenues for the 1981–82 fiscal year.

(2) Determine a percentage for each county by dividing the county costs of eligible programs by the general purposes revenues for the 1981–82 fiscal year.

(3) Make the determination as prescribed in paragraphs (1) and (2) for each county for the 1986–87 fiscal year.

(4) Compare the percentage determined pursuant to paragraph (3) with the percentage determined pursuant to paragraph (2).

(5) If the percentage determined pursuant to paragraph (3) is greater than the percentage determined pursuant to paragraph (2), determine an amount necessary to offset the difference.

(6) Determine an amount which is the sum of the amounts for all counties determined pursuant to paragraph (5).

(b) On or before October 31, 1988, the Director of Finance shall:

(1) Determine for each county the county costs of justice programs and each county's general purpose revenues for the 1981–82 fiscal year.

(2) Determine a percentage for each county by dividing the

county costs of justice programs by the general purpose revenues for the 1981–82 fiscal year.

(3) Make the determination as prescribed in paragraphs (1) and (2) for each county for the 1986–87 fiscal year.

(4) Compare the percentage determined pursuant to paragraph (3) with the percentage determined pursuant to paragraph (2).

(5) If the percentage determined pursuant to paragraph (3) is greater than the percentage determined pursuant to paragraph (2), determine an amount necessary to offset the difference, provided that the amount shall not be greater than one million dollars ($1,000,000).

(6) Determine an amount which is the sum of the amounts for all counties determined pursuant to paragraph (5).

(7) Determine a percentage for each county by dividing the amount determined for that county pursuant to paragraph (5) by the amount for all counties determined pursuant to paragraph (6).

(8) Determine an amount which is the sum of the amounts for all counties determined pursuant to paragraph (5) of subdivision (a).

(9) Determine an amount by subtracting the amount determined pursuant to paragraph (8) from fifteen million dollars ($15,000,000).

(10) Determine an amount for each county by multiplying the amount determined pursuant to paragraph (9) by the percentage determined pursuant to paragraph (7).

(c) On or before October 31, 1988, the Director of Finance shall certify the amounts determined for each county pursuant to paragraph (5) of subdivision (a) and paragraph (10) of subdivision (b).

(d) On or before November 30, 1988, the Controller shall issue a warrant to each county, as applicable, in the amount certified by the Director of Finance under subdivision (c).

16265.4. (a) On or before October 31, 1989, and each year thereafter, the Director of Finance shall:

(1) Determine the percentage for each county which was determined for the 1981–82 fiscal year pursuant to paragraph (2) of subdivision (a) of Section 16265.3.

(2) Make the determination as prescribed by paragraphs (1) and (2) of subdivision (a) of Section 16265.3 for each county for the 1987–88 fiscal year, and for each fiscal year thereafter.

(3) Compare the percentage determined pursuant to paragraph (2) with the percentage determined pursuant to paragraph (1).

(4) For any fiscal year in which the percentage determined pursuant to paragraph (2) is greater than the percentage determined pursuant to paragraph (1), make the determinations prescribed by paragraphs (5) and (6) of subdivision (a) of Section 16265.3.

(b) On or before October 31, 1989, and on or before October 31 of each year thereafter, the Director of Finance shall:

(1) Determine the percentage for each county which was determined for the 1981–82 fiscal year pursuant to paragraph (2) of

subdivision (b) of Section 16265.3.

(2) Make the determination prescribed by paragraphs (1) and (2) of subdivision (b) of Section 16265.3 for each county for the 1987–88 fiscal year, and for each fiscal year thereafter.

(3) Compare the percentage determined pursuant to paragraph (2) with the percentage determined pursuant to paragraph (1).

(4) For any fiscal year in which the percentage determined pursuant to paragraph (2) is greater than the percentage determined pursuant to paragraph (1), make the determinations prescribed by paragraphs (5) to (10), inclusive, of subdivision (b) of Section 16265.3.

(c) On or before October 31, 1989, and on or before October 31 of each year thereafter, the Director of Finance shall determine an amount for each county as prescribed by paragraph (5) of subdivision (a) of Section 16265.3 for the applicable fiscal year and paragraph (4) of subdivision (b).

(d) On or before October 31, 1989, and on or before October 31 of each year thereafter, the Director of Finance shall certify the amount determined for each county pursuant to subdivision (c) to the Controller.

(e) On or before November 30, 1989, and on or before November 30 of each year thereafter, the Controller shall issue a warrant to each county, as applicable, in the amount certified by the Director of Finance under subdivision (d).

16265.5. If a statute appropriates more than fifteen million dollars ($15,000,000) for the purposes of this chapter in a fiscal year, then Sections 16265.3 and 16265.4 shall not apply to the allocation of that amount of money which is greater than fifteen million dollars ($15,000,000). It is the intent of the Legislature to allocate any amount of money greater than fifteen million dollars ($15,000,000) based on criteria which shall consider the costs to counties of welfare, justice programs, and indigent health care.

16265.6. Notwithstanding any other provision of this chapter, once the Legislature has fully implemented the fiscal provisions of the Trial Court Funding Act of 1985, as contained in Chapter 13 (commencing with Section 77000) of Title 8, the Director of Finance shall not make the determinations pursuant to subdivision (b) of Section 16265.3 and subdivisions (b) of Section 16265.4.

16265.7. (a) The state's liability under this chapter shall be limited to the amounts appropriated for this purpose.

(b) Moneys distributed to counties pursuant to this chapter may be used for any lawful purposes, and shall not be considered in the determination of eligible counties in succeeding years.

SEC. 4. Section 21080.08 is added to the Public Resources Code, to read:

21080.08. This division shall not apply to any activity or approval necessary for or incidental to project funding, or the authorization for the expenditure of funds for the project, by the Rural Economic Development Infrastructure Panel pursuant to Article 5

(commencing with Section 15373.6) of Chapter 2.5 of Part 6.7 of Division 3 of Title 2 of the Government Code.

SEC. 5. (a) The sum of sixty-six million seven hundred ninety-three thousand four hundred eighty-eight dollars ($66,793,488) is hereby appropriated from the General Fund and the sum of sixteen million one hundred thirteen thousand four hundred seventy-five dollars ($16,113,475) is hereby appropriated from the Special Account for Capital Outlay in the General Fund for payment to counties and cities and counties. Except as provided in subdivision (e), the funds shall be distributed as follows:

Schedule:

County of Alameda	$4,246,952
County of Alpine	6,685
County of Amador	65,351
County of Butte	398,255
County of Calaveras	53,578
County of Colusa	45,153
County of Contra Costa	2,219,927
County of Del Norte	44,191
County of El Dorado	244,715
County of Fresno	1,974,489
County of Glenn	61,305
County of Humboldt	297,654
County of Imperial	253,367
County of Inyo	78,307
County of Kern	1,468,243
County of Kings	195,655
County of Lake	140,629
County of Lassen	72,086
County of Los Angeles	29,287,812
County of Madera	153,606
County of Marin	571,047
County of Mariposa	24,867
County of Mendocino	236,675
County of Merced	443,834
County of Modoc	31,284
County of Mono	39,455
County of Monterey	901,583
County of Napa	272,778
County of Nevada	141,198
County of Orange	5,200,259
County of Placer	345,521
County of Plumas	77,174
County of Riverside	2,440,745
County of Sacramento	2,743,738
County of San Benito	54,453
County of San Bernardino	2,755,761
County of San Diego	5,239,328

City and County of San Francisco	5,235,436
County of San Joaquin	1,229,384
County of San Luis Obispo	503,165
County of San Mateo	1,792,408
County of Santa Barbara	932,328
County of Santa Clara	3,866,085
County of Santa Cruz	618,622
County of Shasta	350,818
County of Sierra	8,964
County of Siskiyou	110,976
County of Solano	591,160
County of Sonoma	679,336
County of Stanislaus	954,886
County of Sutter	237,855
County of Tehama	152,101
County of Trinity	41,007
County of Tulare	768,602
County of Tuolumne	103,408
County of Ventura	1,476,750
County of Yolo	370,891
County of Yuba	55,121

(b) The sum of twenty-two million seventy-five thousand five hundred twelve dollars ($22,075,512) is hereby appropriated from the General Fund and the sum of five million three hundred twenty-six thousand eight hundred eight dollars ($5,326,808) is hereby appropriated from the Special Account for Capital Outlay in the General Fund for payment to counties and cities and counties. Except as provided in subdivision (e), the funds shall be distributed as follows:

Schedule:

County of Alpine	$21,113
County of Amador	614,282
County of Butte	945,301
County of Calaveras	293,286
County of Del Norte	752,809
County of Fresno	945,301
County of Glenn	399,785
County of Humboldt	945,301
County of Imperial	535,160
County of Inyo	920,788
County of Kings	945,301
County of Lake	117,306
County of Los Angeles	945,301
County of Madera	945,301
County of Mendocino	945,301
County of Merced	945,301
County of Modoc	205,759

County of Mono	254,439
County of Nevada	773,529
County of Orange	945,301
County of Riverside	945,301
County of San Benito	60,685
County of San Diego	945,301
County of San Joaquin	945,301
County of San Mateo	945,301
County of Santa Clara	945,301
County of Shasta	945,301
County of Sierra	105,411
County of Siskiyou	945,301
County of Solano	945,301
County of Sonoma	945,301
County of Stanislaus	945,301
County of Sutter	291,557
County of Tehama	437,370
County of Trinity	556,571
County of Tulare	945,301
County of Tuolumne	945,301
County of Yolo	796,030
County of Yuba	415,119

(c) The sum of eight million dollars ($8,000,000) is hereby appropriated from the Special Account for Capital Outlay in the General Fund to the Rural Economic Development Fund for allocation to the Rural Economic Development Infrastructure Program, established by Article 5 (commencing with Section 15373.6) of Chapter 2.5 of Part 6.7 of Division 3 of Title 2 of the Government Code.

(d) On or before November 30, 1987, the Controller shall issue a warrant to each county and city and county for the amounts specified in subdivisions (a), (b), and (c).

(e) Notwithstanding subdivisions (a), (b), and (c), when the Director of Finance determines that receipt of an amount specified in those subdivisions would result in a county or city and county having proceeds of taxes in excess of its appropriations limit pursuant to Article XIII B of the California Constitution, the Director of Finance shall reduce the amount accordingly. In the case of a reduction pursuant to this subdivision, and if the electors of the local jurisdiction subsequently raise the 1987–88 fiscal year appropriations limit of the jurisdiction, county, or city and county, the county or city and county shall notify the Director of Finance on or before June 30, 1988. The Director of Finance shall certify a supplemental amount to the Controller within 15 days of receiving notice. The Controller shall issue a warrant in that amount to the county or city and county within 30 days of receiving the certification. In the case of a reduction pursuant to this subdivision where there is no certification of a supplemental amount to the Controller on or before July 15, 1988, the

Controller shall distribute the amount of the reduction to all other counties and cities and counties.

SEC. 6. Section 32.50 of Chapter 135 of the Statutes of 1987 is repealed.

SEC. 7. On the effective date of this act, the undispersed balances of the appropriations provided in Items 8885-101-001 (ddd) and 8885-101-001 (eee) of the Budget Act of 1986 (Ch. 186, Stats. 1986) shall revert to the unappropriated surplus of the General Fund.

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:

Counties are in dire fiscal straits and more revenues are necessary so that counties can carry out their functions. In order to provide more revenues to counties as soon as possible and to accelerate the Rural Economic Development Infrastructure Program, it is necessary that this act take effect immediately.

CHAPTER 1287

An act to amend Section 199.57 of and to add Section 26679.5 to, the Health and Safety Code, relating to health.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987.]

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

SECTION 1. Section 199.57 of the Health and Safety Code is amended to read:

199.57. (a) There is hereby created the AIDS Vaccine Research and Development Advisory Committee within the State Department of Health Services which shall review and make recommendations to the state department regarding the award of the AIDS vaccine research and development grants. In accordance with Section 26679.5, the committee shall also review and make recommedations to the state department regarding requests for approvals for AIDS-related drugs pursuant to Section 26670, or for exemptions from these approval requirements pursuant to Section 26679. The membership of the committee shall be appointed by the State Director of Health Services within 30 days of the effective date of this chapter. The chairman of the committee shall be the State Director of Health Services, or his or her designee.

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

(1) The State Director of Health Services, or his or her designee.

(2) An expert in infectious disease and vaccine development to be appointed by the state department.

(3) The chief physician involved in the treatment of AIDS patients at San Francisco General Hospital, or his or her designee.

(4) The Chief of the Office of AIDS within the State Department of Health Services, or his or her designee.

(5) An expert in retro-viruses/AIDS virus research to be appointed by the state department.

(6) One person with significant experience in conducting or reviewing clinical trials of drugs, to be appointed by the director.

(7) One physician and surgeon with significant experience in treating AIDS patients, to be appointed by the director.

(c) Members of the committee 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.

SEC. 2. Section 26679.5 is added to the Health and Safety Code, to read:

26679.5. (a) In making determinations on requests for approval of AIDS-related drugs, as defined in subdivision (b), in accordance with Section 26670, or for exemptions from these requirements, for purposes of investigations of these drugs, pursuant to Section 26679, the department shall employ persons to conduct reviews of requests for drug marketing approval for AIDS-related drugs, or exemptions from the approval requirements as specified in that section. The AIDS Vaccine Research and Development Advisory Committee shall review and advise the department in its actions under this section.

Where necessary, the department shall enter into contracts with appropriate and qualified persons or entities for the review of these requests, including persons with significant experience in conducting or reviewing clinical trials of drugs or physicians with significant experience in treating AIDS patients.

No person may contract with the department for the review of a request under this subdivision if the person has a financial interest or a conflict of interest involving the drug being evaluated.

(b) "AIDS-related drug" means either of the following:

(1) A vaccine to protect against human immunodeficiency virus (HIV) infection.

(2) Antiviral agent, immune modulator, or other agent to be administered to persons who have been infected with HIV, to counteract the effects of this infection, or any drug to treat opportunistic infections associated with AIDS.

(c) The department, not later than July 1, 1988, and annually thereafter, shall report to the Legislature on the activities conducted pursuant to this section.

(d) The immunities provided for in Sections 818.4 and 821.6 of the Government Code shall apply whenever the department grants approval pursuant to Section 26670 or an exemption from the approval requirements pursuant to Section 26679, for an AIDS-related drug.

CHAPTER 1288

An act relating to groundwater recharge facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987]

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

SECTION 1. Pursuant to Section 13466 of the Water Code, the Department of Water Resources is hereby authorized to make loans from the Water Conservation and Groundwater Recharge Account in the 1986 Water Conservation and Water Quality Bond Fund, in accordance with the Water Conservation and Water Quality Bond Law of 1986 (Chapter 6.1 (commencing with Section 13450) of Division 7 of the Water Code), to the following local agencies for purposes of financing proposed water conservation and groundwater recharge projects and feasibility studies therefor:

(a) Groundwater Recharge

Agency	Project
(1) City of Fresno Water Division	Extract DBCP SE groundwater
(2) City of Fresno Water Division	Recharge/extraction B&E
(3) Fresno County Service Area 34	Millerton rchrg/extr proj
(4) Fresno Irrigation District	SE Fresno GWR project
(5) Kings County Water District	Delta View ID in-lieu GWR
(6) Kings River Conservation District	Adams recharge KRCD-2
(7) Kings River Conservation District	Marks rchrg project KRCD1
(8) Pleasant Valley Water District	Pleasant Vlly Wtr Dist SY

(b) Water Conservation

Agency	Project
(1) Armona Community Services District	Metering and line rplcmt
(2) Consolidated Irrigation District	C&K canal lining project
(3) Dudley Ridge Water District	Canal 3S lining
(4) Gravely Ford Water District	Gravely Ford Canal diver

(5) Gravely Ford Water District	Line Grv/Frd headworks
(6) Laguna Irrigation District	Piping RR ditch
(7) Laguna Irrigation District	Three-canal imprv project
(8) Laguna Irrigation District	Water meter project
(9) Madera Irrigation District	Cottonwood Crk Equa Res
(10) Panoche Water District	Canal lining Panoche WD
(11) Sweetwater Joint Powers Agency.....	Perennial subterr drip

SEC. 2. The State Water Resources Control Board, pursuant to Section 13466 of the Water Code, is hereby authorized to make a loan from the Agricultural Drainage Water Account in the 1986 Water Conservation and Water Quality Bond Fund, in accordance with Chapter 6.1 (commencing with Section 13450) of Division 7 of the Water Code, in the amount of two million six hundred seventy thousand dollars ($2,670,000) to the Lost Hills Water District for the purposes of financing Phase I of a drainage collection and evaporation pond system, as provided in Section 13459 of the Water 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:

Rising costs of construction have pushed the costs of acquiring land and contructing groundwater recharge, irrigation drainage, and water conservation projects beyond the ability of local agencies to pay. In order, therefore, to ensure that the water resources of the state be conserved and overdrafted groundwater basins be recharged to ensure continued economic, community, and social growth in California, it is necessary that this act take effect immediately.

CHAPTER 1289

An act to amend Sections 1858, 1858.1, 1858.2, 1858.3, 1858.4, and 1859.1 of, and to add Sections 1858.01, 1858.02, and 1858.35 to, the Insurance Code, relating to insurance.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 1858 of the Insurance Code is amended to read:

1858. (a) Any person aggrieved by any rate charged, rating plan, rating system, or underwriting rule followed or adopted by an insurer or rating organization, may file a written complaint with the

commissioner requesting that the commissioner review the manner in which the rate, plan, system, or rule has been applied with respect to the insurance afforded to that person. In addition, the aggrieved person may file a written request for a public hearing before the commissioner, specifying the grounds relied upon.

(b) The commissioner shall advise the insurer or rating organization that a complaint has been filed against it and the nature of the complaint and provide the insurer or rating organization with an opportunity to respond to the complaint.

(c) If the commissioner has information concerning a similar complaint, he or she may deny the request for a public hearing until a determination is made or a public hearing is held on the similar complaint or may consolidate similar complaints for determination or public hearing. If he or she believes, after review and investigation of the facts alleged in the complaint and the facts alleged in any response to the complaint, that probable cause for the complaint does not exist or that the complaint is not made in good faith, he or she shall so advise the complainant and shall deny any request made for a public hearing. If he or she believes, after review and investigation of the facts alleged in the complaint and the facts alleged in any response to the complaint, that probable cause for the complaint does exist, that the complaint charges a violation of this chapter, and that the complainant would be aggrieved if the violation is proven, he or she shall proceed as provided in Section 1858.1 unless the complaint was accompanied by a request for public hearing, in which case he or she shall proceed as provided in Section 1858.2.

(d) Nothing in this section prohibits or limits the right of any aggrieved person, either prior to or in conjunction with the filing of a written complaint with the commissioner under this section, from requesting an insurer or rating organization to review the manner in which the rate, plan, system, or rule has been applied with respect to the insurance afforded to that person.

SEC. 1.5. Section 1858.01 is added to the Insurance Code, to read:

1858.01. (a) Whenever a written complaint has been filed with the commissioner, the commissioner shall review and investigate the matter complained of as provided by Section 1858 and shall make a determination whether there is probable cause to believe that a violation of this chapter has occurred. This determination shall be made within a reasonable time, but in no event more than 60 days after the complaint regarding a policy in a personal line of insurance or 90 days in the case of a policy in a class of commercial insurance is filed unless the complainant consents to a greater time or unless the complainant enters into informal conciliation of the complaint. The time and location of the conciliation shall be mutually agreeable to the complainant and to the insurer.

(b) Whenever a written complaint is accompanied by written request for a public hearing, the commissioner shall review and investigate the matter complained of as provided in Section 1858 and

shall grant or deny the request for a public hearing within a reasonable time, but in no event more than 90 days when the complaint is regarding a policy in a personal line of insurance or 120 days in the case of a policy in a class of commercial insurance, unless the complainant consents to a greater time or unless the complainant enters into informal conciliation of the complaint. The time and location of the conciliation shall be mutually agreeable to the complainant and to the insurer.

(c) In the event the complainant enters into informal conciliation of the complaint, the time set forth in subdivisions (a) and (b) for making a determination or for granting or denying a request for a public hearing shall be tolled for up to 10 working days until informal conciliation results in resolution of the complaint or informal conciliation is ended without resolution of the complaint. Should informal conciliation fail to result in resolution of the complaint, the commissioner shall review the facts presented by the complainant and the insurer or rating organization, together with the facts alleged in the complaint and any response to the complaint, to determine whether probable cause exists to believe that a violation of this chapter has occurred.

(d) For purposes of this subdivision, "personal insurance" means all coverages combined in private passenger automobile insurance policies as those policies are described in Section 660 and all forms combined in property or multiperil insurance policies as those policies are described in Section 675.

(e) For purposes of this subdivision, "commercial insurance" means any class, as defined by the Insurance Services Office of commercial insurance and any class of insurance designated under subdivisions (b) and (c) of Section 1857.9.

SEC. 1.6. Section 1858.02 is added to the Insurance Code, to read:

1858.02. (a) The commissioner may seek resolution of a complaint by informal conciliation at any time and may require the complainant and insurer or rating organization to meet and confer for the purposes of resolving the matter complained of by informal conciliation. The commissioner may decline to find probable cause for a complaint and may deny a request for a public hearing if the complainant refuses to enter into informal conciliation at the commissioner's request. Likewise, the commissioner may find probable cause for a complaint and may act to hold a public hearing, whether or not a request for a public hearing accompanied the complaint, if the insurer or rating organization refuses to enter into informal conciliation at the commissioner's request.

(b) Communications to the commissioner in respect to resolution of a complaint by informal conciliation shall be made to him or her in official confidence within the meaning of Sections 1040 and 1041 of the Evidence Code and shall not be disclosed by the commissioner. However, the commissioner may report on the results of informal conciliation.

SEC. 2. Section 1858.1 of the Insurance Code is amended to read:

1858.1. If after examination of an insurer, rating organization, advisory organization, or group, association, or other organization of insurers which engages in joint underwriting or joint reinsurance, or upon the basis of other information, or upon sufficient complaint as provided in Section 1858, the commissioner has good cause to believe that the insurer, organization, group, or association, or any rate, rating plan or rating system made or used by any such insurer or rating organization, does not comply with the requirements and standards of this chapter applicable to it, he or she shall give notice in writing to that insurer, organization, group, or association stating therein in what manner and to what extent that noncompliance is alleged to exist and specifying therein a reasonable time, not less than 10 days thereafter, in which that noncompliance may be corrected.

An insurer, organization, group, or association served with that notice of noncompliance may, within the time specified therein, (a) establish to the satisfaction of the commissioner that such noncompliance does not exist, or (b) request a public hearing, notice of which shall be given at least 30 days prior to the date set for hearing, or (c) enter into an informal conciliation with the commissioner and any complainant making a complaint pursuant to Section 1858 to resolve the matter complained of, or (d) enter into a consent order with the commissioner to correct the specified noncompliance within a period of time specified in the consent order. A consent order shall provide that in the event the noncompliance is not corrected within the time specified therein that a money penalty of not to exceed ten thousand dollars ($10,000) shall attach and be collected by the commissioner for each day the violation of the consent order continues. This money penalty shall not exceed in the aggregate the sum of one hundred thousand dollars ($100,000). In addition to or in lieu of the procedure provided herein the commissioner may proceed with a public hearing as provided in Section 1858.2.

SEC. 3. Section 1858.2 of the Insurance Code is amended to read:

1858.2. (a) If the insurer, organization, group, or association does not make those changes as may be necessary to correct the noncompliance specified in the notice issued under Section 1858.1, or if the insurer, organization, group, or association has failed to establish to the satisfaction of the commissioner that such noncompliance does not exist, the commissioner shall hold a public hearing by mailing a notice to that insurer, organization, group, or association not less than 30 days prior to the date set for hearing specifying the matters to be considered at the hearing.

(b) In the event that the insurer and complainant resolve the matter and the insurer has consented to a rating modification, then that modification shall apply to other policyholders underwritten by the insurer for that class of insurance.

(c) If the insurer, organization, group, or association has refused to enter into informal conciliation at the request of the

commissioner, the commissioner may hold a public hearing, whether or not the complaint was accompanied by a request for a public hearing, by mailing a notice to the insurer, organization, group, or association not less than 30 days prior to the date set for hearing specifying the matters to be considered at the hearing.

(d) If a hearing noticed under subdivisions (a) and (c) is based upon a complaint made pursuant to Section 1858, the commissioner shall also mail notice to the complainant not less than 30 days prior to the date set for hearing specifying the matters to be considered at the hearing.

(e) If upon sufficient complaint as provided in Section 1858 and upon review and investigation of the complaint, the commissioner has good cause to believe that the insurer, organization, group, or association, or any rate, rating plan, or rating system made or used by that insurer or rating organization, does not comply with the requirements and standards of this chapter applicable to it, the commissioner shall hold a public hearing by mailing a notice to the complainant and to the insurer, organization, group, or association not less than 30 days prior to the date set for hearing specifying the matters to be considered at the hearing.

(f) With respect to public hearings under this section, the commissioner may at his or her discretion, grant preference to a hearing in which the complainant has reached the age of 70 years.

SEC. 4. Section 1858.3 of the Insurance Code is amended to read:

1858.3. If after a hearing pursuant to Section 1858.2 the commissioner finds:

(a) That any rate, rating plan, or rating system violates the provisions of this chapter applicable to it, he or she shall issue an order to the insurer or rating organization which has been the subject of the hearing specifying in what respects that violation exists and stating when, within a reasonable period of time, the further use of that rate or rating system by that insurer or rating organization in contracts of insurance made thereafter shall be prohibited. The commissioner may, in addition to that order, direct the insurer or rating organization to take such other corrective action as he or she may deem necessary and proper.

(b) That an insurer, rating organization, advisory organization, or a group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, is in violation of the provisions of this chapter applicable to it other than the provisions dealing with rates, rating plans, or rating systems, he or she may issue an order to that insurer, organization, group, or association which has been the subject of the hearing specifying in what respects that violation exists and requiring compliance within a reasonable time thereafter.

(c) Any order of the commissioner issued pursuant to subdivision (a) or (b) shall provide that a money penalty of not to exceed ten thousand dollars ($10,000) shall attach and be collected by the commissioner for each day such person fails to comply within the

time specified therein with the provisions of that order in the same manner as that provided in Section 1858.1. This penalty shall not exceed in the aggregate the sum of one hundred thousand dollars ($100,000).

SEC. 5. Section 1858.4 of the Insurance Code is amended to read:

1858.4. In addition to other penalties provided in this code, the commissioner shall suspend or revoke, in whole or in part, the license of any rating organization or the certificate of authority of any insurer with respect to the class or classes of insurance specified in that order, which fails to comply within the time limited by that order or any extension thereof which the commissioner may grant, with an order of the commissioner lawfully made by him or her pursuant to Section 1858.3 and effective pursuant to Section 1858.6.

SEC. 5.5. Section 1858.35 is added to the Insurance Code, to read:

1858.35. On or before May 1 of the years 1988 and 1989, the commissioner shall submit a report to the Legislature and the Governor stating the number and type of complaints received under this article and the status and disposition of these complaints. The commissioner may make any recommendations for improving the efficiency and effectiveness of complaint handling under this article.

No information shall be provided under this section pertaining to a specified complaint against a specific insurer or rating organization. However, the commissioner may report that information in the aggregate.

SEC. 6. Section 1859.1 of the Insurance Code is amended to read:

1859.1. (a) Any person, insurer, organization, group, or association who fails to comply with a final order of the commissioner under this chapter shall be liable to the state in an amount not exceeding fifty thousand dollars ($50,000) but if the failure is willful he or she or it shall be liable to the state in an amount not exceeding two hundred fifty thousand dollars ($250,000) for the failure. The commissioner shall collect the amount so payable and may bring an action in the name of the people of the State of California to enforce collection. These penalties may be in addition to any other penalties provided by law.

(b) A willful violation of this chapter by any person is a misdemeanor.

CHAPTER 1290

An act to add Section 12922.7 to, and to add and repeal Section 1857.15 of, the Insurance Code, relating to insurance.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987.]

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

SECTION 1. Section 1857.15 is added to the Insurance Code, to read:

1857.15. (a) Each insurer engaged in writing director and officer liability insurance coverage for nonprofit public benefit corporations in this state shall submit to the commissioner a report of its operations regarding director and officer liability claims experience for the preceding calendar year ending on December 31 on a form furnished by the commissioner. Each report shall separately state the following information for nonprofit public benefit corporations:

(1) Direct premiums earned.

(2) Direct premiums written.

(3) Earned exposures per year for nonprofit public benefit corporations.

(4) Number of new claims made during the reporting period.

(5) Number of claims paid during the reporting period.

(6) Number of claims outstanding at the end of the reporting period.

(7) Total losses incurred and total losses unpaid by calendar year and either occurrence year or reporting year.

(8) Total losses incurred and reported, including loss adjustment expense, as a percentage of premiums earned.

(9) Total number of policies written during the reporting period.

(10) The average and median amount of claims paid during the reporting period.

(11) Net underwriting gain or loss.

(b) The commissioner shall develop and issue reporting forms to insurers in accordance with the department's current insurance reporting procedures.

The commissioner shall make available upon request, but in any event no later than 120 days after the last day of the preceding reporting period, a report summarizing the information required in this section. The commissioner shall make findings and recommendations, as appropriate, relative to the availability and affordability of public benefit corporation director and officer liability insurance and the rates thereof.

SEC. 2. Section 12922.7 is added to the Insurance Code, to read:

12922.7. The commissioner shall prepare and submit a report to the Legislature, on or before January 1, 1989, on the effectiveness of his or her monitoring and regulation of the financial condition of

insurers and on alternative methodologies for more effective monitoring and regulation. The commissioner shall identify any additional resources required for the monitoring and regulation of insurers.

SEC. 3. Section 1 of this act 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.

CHAPTER 1291

An act to add Section 44049 to the Education Code, relating to school employees.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 44049 is added to the Education Code, to read:

44049. (a) Except as provided in subdivision (c), any principal or person designated by the principal who, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a student whom he or she knows, or reasonably suspects as evidenced by the student's apparent intoxication, has consumed an alcoholic beverage or abused a controlled substance, as listed in Chapter 2 (commencing with Section 11053) of the Health and Safety Code, may report the known or suspected instance of alcohol or controlled substance abuse to the parent or parents, or other person having legal custody, of the student.

(b) No principal or his or her designee who reports a known or suspected instance of alcohol or controlled substance abuse by a student to the parent or parents, or other person having legal custody, of the student shall be civilly or criminally liable, for any report or as a result of any report, unless it can be proven that a false report was made and the principal or his or her designee knew that the report was false or was made with reckless disregard for the truth or falsity of the report. Any principal or his or her designee who makes a report known to be false or with reckless disregard of the truth or falsity of the report is liable for any damages caused.

(c) No principal or person designated by the principal shall report a known or suspected instance of alcohol or controlled substance abuse by a student to the parent or parents, or other person having legal custody, of the student if the report would require the disclosure of confidential information in violation of Section 35301 or 72621.

CHAPTER 1292

An act relating to electricity.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987.]

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

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

(a) The use of advanced solid waste management technology and the conversion of solid waste into useful energy can help to address the increasingly critical solid waste disposal problems of the state in a manner consistent with environmental concerns for clean water and clean air.

(b) Previous expressions of legislative intent contained in Section 25541.1 of the Public Resources Code have encouraged the development of resource recovery and waste-to-energy technology. However, due to the high level of capital investment required and the need to reduce emissions of air pollutants, waste-to-energy facilities have not been developed as needed.

(c) Sales of electricity to electrical utilities by operators of solid waste disposal facilities can help to defray the costs of advanced solid waste management technology. The electricity sales can serve a public purpose, promote the health, welfare, and safety of the citizens of the state, and be in the public interest.

SEC. 2. Therefore, in enacting this act, it is the policy of the Legislature that electricity from, or the electrical generating capacity of, or both, the Sanger Waste Disposal and Cogeneration Plant (the Sanger project), which is a demonstration project in the City of Sanger that uses advanced conversion or combustion technology, be purchased by an electrical corporation pursuant to charges which may take into consideration the electrical corporation's long-term avoided costs as authorized by the Public Utilities Commission. The amounts of these charges shall be deemed reasonable and may be recovered by the electrical corporation in its electric rates.

SEC. 3. (a) A negotiated contract for the purchase of the electrical capacity and electricity from the Sanger project may be structured to provide charges in the early years of the contract that are higher than avoided costs, in order to facilitate project financing, so long as the total income over the life of the facility approximates the electrical corporation's long-term avoided costs. Contracts structured in this way shall include provisions for recovery of payments in the event of default by the owner or operator of the facility.

(b) An electrical purchase contract with the Sanger project may include provisions for dispatching the facility in accordance with the

specifications of the electrical corporation, as authorized by the commission.

(c) When the application of the Sanger project, which generates electricity by the incineration of municipal waste, is found and determined to be in the public interest, the commission may require an electrical corporation to purchase the entire electrical output of that facility, pursuant to equitable charges which take into consideration both the electrical corporation's long-term and short-term avoided costs, as authorized by the commission under the following circumstances:

(1) The facility utilizes advanced combustion or conversion technology.

(2) The Sanger project receives a fee for acceptance of the municipal solid waste utilized in the facility that provides at least 35 percent of the revenue required to meet operating expenses of the project, maintenance expenses, and debt service requirements.

(3) The Sanger project will dispose of the ash or other postcombustion residue in a manner that complies with applicable regulations of the California Waste Management Board, the State Water Resources Control Board, and the State Department of Health Services.

(4) The Sanger project has secured all applicable land use, siting, air quality, and water quality permits.

(d) As used in this act, the term "avoided costs" means the costs to the electrical corporation of electricity or electrical generating capacity which, but for the purchase of electricity pursuant to this section, the electrical corporation would purchase from another source or generate itself.

(e) As used in this act, the term "advanced combustion or conversion technology" means any innovative and advanced technology involving either of the following processes:

(1) The combustion of solid waste for the purpose of producing steam for the generation of electricity.

(2) The conversion of solid waste into combustible products to be used in the generation of electricity or transmission into natural gas distribution pipelines.

In either of these two processes, the advanced combustion or conversion technologies shall result in emission of air pollutants, both criteria and noncriteria pollutants, which are significantly less than the emissions resulting from a conventional mass burn waste-to-energy technology facility sited under applicable regulations and shall meet all ambient air quality standards of the air pollution control district or air quality management district within whose jurisdiction the project is located without securing emissions offsets. Examples of advanced combustion or conversion technologies include, but are not limited to, thermal gasification, anaerobic digestion, fluidized bed combustion, or computer controlled automatic combustion processes with selective catalytic reactors.

SEC. 4. The Legislature hereby finds and declares that this act is not a special statute within the meaning of Section 16 of Article IV of the California Constitution, since the Sanger Waste Disposal and Cogeneration Plant is the only demonstration project in the state which will use advanced conversion or combustion technology.

CHAPTER 1293

An act to amend, repeal, and add Sections 18911 and 18914 of, to add and repeal Sections 18904.3, 18905.1, 18912, and 18914.5 of, and to repeal and add Section 18913 of, the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987]

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

SECTION 1. (a) This act shall be known and may be cited as the Food Stamp and Emergency Food Access Act of 1987.

(b) The Legislature intends to address the widespread and growing problem of hunger in California by strengthening the requirements for the expedited issuance of food stamps and by better coordinating emergency food referrals.

SEC. 2. Section 18904.3 is added to the Welfare and Institutions Code, to read:

18904.3. Nothing in this chapter shall be construed to authorize the department to administer outreach programs or to adopt regulations mandating that counties conduct outreach programs, except to the extent provided in Section 18911 and to the extent required by federal law.

This section shall become operative July 1, 1988, shall become inoperative July 1, 1991, and as of January 1, 1992 is repealed, unless a later enacted statute chaptered prior to that date, extends or deletes that date.

SEC. 3. Section 18905.1 is added to the Welfare and Institutions Code, to read:

18905.1. The department shall not impose any additional requirements for verification of eligibility for expedited service other than those minimum requirements that exist under federal law.

This section shall become operative July 1, 1988, shall become inoperative July 1, 1991, and as of January 1, 1992 is repealed, unless a later enacted statute chaptered prior to that date, extends or deletes that date.

SEC. 4. Section 18911 of the Welfare and Institutions Code is amended to read:

18911. (a) An application and an authorization for participation

in the Food Stamp Program shall be processed within a period of not more than 30 days from the date of application.

(b) The department shall develop written information that describes the eligibility and verification requirements for expedited service, the process for applying for those benefits, and the availability of assistance in filling out the forms and gathering needed documentation.

(c) Each county welfare department shall make the material developed pursuant to subdivision (b) available to each applicant at the time the applicant initially seeks food stamp benefits.

(d) Each county welfare department shall, upon request, make available the information developed pursuant to subdivision (b) to community action agencies, legal services offices, emergency food programs, and other programs.

(e) Each county welfare department shall compile a list of emergency food providers in the area served by the local food stamp office. The list shall be updated, based on information from the food providers. The list shall be made available upon request, and, where needed, may be used to refer individuals to emergency food sites that may be able to provide assistance.

(f) Each county welfare department shall make available to food stamp applicants, upon request, nonpromotional information that contains addresses and phone numbers of local legal services and welfare rights organizations.

This section shall become operative July 1, 1988, shall become inoperative July 1, 1991, and as of January 1, 1992 is repealed, unless a later enacted statute chaptered prior to that date, extends or deletes that date.

SEC. 4.5. Section 18911 is added to the Welfare and Institutions Code, to read:

18911. An application and an authorization for participation in the Food Stamp Program shall be processed within a period of not more than 30 days from the date of application.

This section shall become operative July 1, 1991.

SEC. 5. Section 18912 is added to the Welfare and Institutions Code, to read:

18912. (a) Each county welfare department shall orally inform each applicant of the availability of expedited service and assistance in filling out the application.

(b) Each county welfare department shall assist an applicant, upon request of the applicant, in filling out forms and completing the application process for expedited service.

This section shall become operative July 1, 1988, shall become inoperative July 1, 1991, and as of January 1, 1992 is repealed, unless a later enacted statute chaptered prior to that date, extends or deletes that date.

SEC. 6. Section 18913 of the Welfare and Institutions Code is repealed.

SEC. 7. Section 18913 is added to the Welfare and Institutions

Code, to read:

18913. The department shall collect, quarterly, expedited service data, on a county-by-county basis, of the number of applications and the disposition of the applications, and shall publish those statistics quarterly and shall report this information to the Legislature after the first year of data gathering. In addition, the department shall collect information on the extent of food stamp overissuances and underissuances which occur as a result of the expedited eligibility process required by subdivision (b) of Section 18914, as well as the number of food stamp cases which are closed after issuance of the expedited food stamps in the first month due to a failure of the applicant to complete the application for the receipt of ongoing food stamp benefits.

This section shall become operative July 1, 1988, shall become inoperative July 1, 1991, and as of January 1, 1992 is repealed, unless a later enacted statute chaptered prior to that date, extends or deletes that date.

SEC. 8. Section 18914 of the Welfare and Institutions Code is amended to read:

18914. (a) To the extent provided by federal law, the county welfare department shall provide food stamp benefits on an expedited basis to households determined to be in immediate need of food assistance.

(b) At the time an applicant initially seeks assistance, the county welfare department shall screen all expedited service applications on a priority basis. Applicants who meet the federal criteria for expedited service shall receive either a manual authorization to participate or automated card or the immediate issuance of food stamp coupons no later than the third day following the date the application was filed. To the maximum extent permitted by federal law, the amount of income to be received from any source shall be deemed to be uncertain and exempt from consideration in the determination of eligibility for expedited service. For purposes of this subdivision, a weekend shall be considered one calendar day.

(c) The State Department of Social Services shall develop and implement for expedited issuance a uniform procedure for verifying information required of an applicant.

This section shall become operative July 1, 1988, shall become inoperative July 1, 1991, and as of January 1, 1992 is repealed, unless a later enacted statute chaptered prior to that date, extends or deletes that date.

SEC. 9. Section 18914 is added to the Welfare and Institutions Code, to read:

18914. To the extent provided by federal law, the county welfare department shall provide food stamp benefits on an expedited basis to households determined to be in immediate need of food assistance.

This section shall become operative July 1, 1991.

SEC. 9.5. Section 18914.5 is added to the Welfare and Institutions

Code, to read:

18914.5. The department shall consult with the County Welfare Directors Association when developing state budget estimates on the administrative funds necessary to carry out the three-day expedited service requirement and the method of allocating these funds to county welfare departments.

This section shall become operative July 1, 1988, shall become inoperative July 1, 1991, and as of January 1, 1992 is repealed, unless a later enacted statute chaptered prior to that date, extends or deletes that date.

SEC. 10. The department shall promulgate such regulations, procedures, and forms as are necessary to implement this act on a uniform, statewide basis. The Director of Social Services shall adopt emergency regulations implementing this act within 120 days of the effective date of this act.

SEC. 11. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 12. Section 6 of this act shall become operative July 1, 1988.

CHAPTER 1294

An act to amend Section 11642 of the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 11642 of the Health and Safety Code is amended to read:

11642. (a) To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,250,000 for costs of prosecuting violations, attempts to violate, or conspiracies to violate Section 11100, 11100.1, 11104, 11105, 11379.6, or 11383 initiated after January 1, 1987. Funding under this subdivision shall not exceed twenty-five thousand dollars ($25,000) for each prosecution or joint prosecution assisted. All funds allocated to a county under this subdivision shall be distributed by it

only to its prosecutorial agency, to be used solely for investigation and prosecution of these offenses. Funds distributed under this subdivision shall not be used to supplant any local funds that would, in the absence of this subdivision, be made available to support the prosecutorial efforts of counties.

Cases wholly financed or reimbursed under any other state or federal program including, but not limited to, the Asset Forfeiture Program (Section 11489), the Major Narcotic Vendors Prosecution Law (Section 13881 of the Penal Code), or the California Career Criminal Apprehension Program (Section 13851 of the Penal Code), shall not be entitled to reimbursement under this subdivision.

(b) To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,250,000 for law enforcement personnel expenses, not exceeding ten thousand dollars ($10,000) per case, incurred in the investigation of violations, attempts to violate, or conspiracies to violate Section 11100, 11100.1, 11104, 11105, 11379.6, or 11383 initiated after January 1, 1987. All funds allocated to a county under this subdivision shall be distributed by it only to its law enforcement agency to be used solely for investigation and detection of these offenses. Funds distributed under this subdivision shall not be used to supplant any local funds that would, in the absence of this subdivision, be made available to support the law enforcement efforts of counties. Cases financed or reimbursed under any other state or federal program, including, but not limited to, the Asset Forfeiture Program, (Section 11489), the California Career Criminal Apprehension Program (Section 13851 of the Penal Code), or the federal Asset Forfeiture Program (21 U.S.C. Sec. 881), shall not be entitled to reimbursement under this subdivision.

(c) To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,250,000 for costs incurred by, or at the direction of, state or local law enforcement agencies to remove and dispose of or store toxic waste from the sites of laboratories used for the unlawful manufacture of a controlled substance.

(d) For the purposes of this section, the population of a county shall be as determined by Section 28020 of the Government Code.

As used in this section, "counties" includes any city within a county with a population of less than 1,250,000.

The Department of Justice may adopt emergency regulations consistent with this section and the Administrative Procedure Act.

(e) Reimbursement under this section may be provided only with respect to costs incurred on or after January 1, 1987.

SEC. 2. Section 11642 of the Health and Safety Code is amended to read:

11642. (a) To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall

be adopted by the Department of Justice, may reimburse counties with a population under 1,250,000 for costs of prosecuting violations, attempts to violate, or conspiracies to violate Section 11100, 11100.1, 11104, 11105, 11379.6, or 11383 initiated after January 1, 1987. Funding under this subdivision shall not exceed twenty-five thousand dollars ($25,000) for each prosecution or joint prosecution assisted. All funds allocated to a county under this subdivision shall be distributed by it only to its prosecutorial agency, to be used solely for investigation and prosecution of these offenses. Funds distributed under this subdivision shall not be used to supplant any local funds that would, in the absence of this subdivision, be made available to support the prosecutorial efforts of counties.

Cases wholly financed or reimbursed under any other state or federal program including, but not limited to, the Asset Forfeiture Program (Section 11489), the Major Narcotic Vendors Prosecution Law (Section 13881 of the Penal Code), or the California Career Criminal Apprehension Program (Section 13851 of the Penal Code), shall not be entitled to reimbursement under this subdivision.

(b) To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,250,000 for law enforcement personnel expenses, not exceeding ten thousand dollars ($10,000) per case, incurred in the investigation of violations, attempts to violate, or conspiracies to violate Section 11100, 11100.1, 11104, 11105, 11379.6, or 11383 initiated after January 1, 1987. All funds allocated to a county under this subdivision shall be distributed by it only to its law enforcement agency to be used solely for investigation and detection of these offenses. Funds distributed under this subdivision shall not be used to supplant any local funds that would, in the absence of this subdivision, be made available to support the law enforcement efforts of counties. Cases financed or reimbursed under any other state or federal program, including, but not limited to, the Asset Forfeiture Program, (Section 11489), the California Career Criminal Apprehension Program (Section 13851 of the Penal Code), or the federal Asset Forfeiture Program (21 U.S.C. Sec. 881), shall not be entitled to reimbursement under this subdivision.

(c) (1) To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,250,000 for costs incurred by, or at the direction of, state or local law enforcement agencies to remove and dispose of or store toxic waste from the sites of laboratories used for the unlawful manufacture of a controlled substance.

(2) The local law enforcement agency or Department of Justice shall notify the local health officer within 24 hours of the seizure of a laboratory used for the unlawful manufacture of a controlled substance. The local health officer shall either:

(A) Make a determination as to whether the site poses an

immediate threat to public health and safety, and is so, shall undertake immediate corrective action.

(B) Notify the State Department of Health Services.

As used in this section, "counties" includes any city within a county with a population of less than 1,250,000.

The Department of Justice may adopt emergency regulations consistent with this section and the Administrative Procedure Act.

SEC. 3. Section 2 of this bill incorporates amendments to Section 11642 of the Health and Safety Code proposed by both this bill and AB 2503. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1988, but this bill becomes operative first, (2) each bill amends Section 11642 of the Health and Safety Code, and (3) this bill is enacted after AB 2503, in which case Section 11642 of the Health and Safety Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 2503, at which time Section 2 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 authorize the reimbursement, under Section 11642 of the Health and Safety Code, of cities within a county with a population of less than 1,250,000, for costs incurred in the prosecution of controlled substances offenses and the removal and disposal or storage of toxic waste from the sites of laboratories used to unlawfully manufacture controlled substances, at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1295

An act to amend Section 11642 of, and to add Section 11100.05 to, the Health and Safety Code, relating to controlled substances, and making an appropriation therefor.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987]

I am deleting the $500,000 appropriation contained in Section 5 of Assembly Bill 2503.

This bill would impose new drug cleanup fines, which would be deposited into a new Clandestine Drug Lab Clean-Up Account The bill would appropriate $500,000 (General Fund) to the Department of Health Services for cleanup of hazardous wastes at seized or abandoned clandestine drug labs

There are already other funding sources which can be used for cleanups of this kind. I believe these other sources are sufficient to support the costs of these cleanups until the new fines and penalties are available for distribution.

With this deletion, I approve Assembly Bill 2503.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 11100.05 is added to the Health and Safety Code, to read:

11100.05. (a) In addition to any fine or imprisonment imposed under subdivision (f) of Section 11100 or subdivision (f) of Section 11106 of the Health and Safety Code, the following drug cleanup fine shall be imposed:

(1) Ten thousand dollars ($10,000) for violations described in paragraph (1) of subdivision (f) of Section 11100.

(2) One hundred thousand dollars ($100,000) for violations described in paragraph (2) of subdivision (f) of Section 11100.

(3) Ten thousand dollars ($10,000) for violations described in subdivision (f) of Section 11106.

(b) At least once a month, all fines collected under this section shall be transferred to the State Treasury for deposit in the Clandestine Drug Lab Clean-up Account. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

SEC. 2. Section 11642 of the Health and Safety Code is amended to read:

11642. (a) To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,250,000 for costs of prosecuting violations, attempts to violate, or conspiracies to violate Section 11100, 11100.1, 11104, 11105, 11379.6, or 11383 initiated after January 1, 1987. Funding under this subdivision shall not exceed twenty-five thousand dollars ($25,000) for each prosecution or joint prosecution assisted. All funds allocated to a county under this subdivision shall be distributed by it only to its prosecutorial agency, to be used solely for investigation and prosecution of these offenses. Funds distributed under this subdivision shall not be used to supplant any local funds that would, in the absence of this subdivision, be made available to support the prosecutorial efforts of counties.

Cases wholly financed or reimbursed under any other state or federal program including, but not limited to, the Asset Forfeiture Program (Section 11489), the Major Narcotic Vendors Prosecution Law (Section 13881 of the Penal Code), or the California Career Criminal Apprehension Program (Section 13851 of the Penal Code), shall not be entitled to reimbursement under this subdivision.

(b) To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,250,000 for law enforcement personnel expenses, not exceeding ten thousand dollars ($10,000) per case, incurred in the investigation of violations, attempts to violate, or conspiracies to violate Section 11100, 11100.1, 11104, 11105, 11379.6, or 11383 initiated after January 1, 1987. All funds allocated to a county under this

subdivision shall be distributed by it only to its law enforcement agency to be used solely for investigation and detection of these offenses. Funds distributed under this subdivision shall not be used to supplant any local funds that would, in the absence of this subdivision, be made available to support the law enforcement efforts of counties. Cases financed or reimbursed under any other state or federal program, including, but not limited to, the Asset Forfeiture Program, (Section 11489), the California Career Criminal Apprehension Program (Section 13851 of the Penal Code), or the federal Asset Forfeiture Program (21 U.S.C. Sec. 881), shall not be entitled to reimbursement under this subdivision.

(c) (1) To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,250,000 for costs incurred by, or at the direction of, state or local law enforcement agencies to remove and dispose of or store toxic waste from the sites of laboratories used for the unlawful manufacture of a controlled substance.

(2) The local law enforcement agency or Department of Justice shall notify the local health officer within 24 hours of the seizure of a laboratory used for the unlawful manufacture of a controlled substance. The local health officer shall either:

(A) Make a determination as to whether the site poses an immediate threat to public health and safety, and if so, shall undertake immediate corrective action.

(B) Notify the State Department of Health Services.

SEC. 3. Section 11642 of the Health and Safety Code is amended to read:

11642. (a) To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,250,000 for costs of prosecuting violations, attempts to violate, or conspiracies to violate Section 11100, 11100.1, 11104, 11105, 11379.6, or 11383 initiated after January 1, 1987. Funding under this subdivision shall not exceed twenty-five thousand dollars ($25,000) for each prosecution or joint prosecution assisted. All funds allocated to a county under this subdivision shall be distributed by it only to its prosecutorial agency, to be used solely for investigation and prosecution of these offenses. Funds distributed under this subdivision shall not be used to supplant any local funds that would, in the absence of this subdivision, be made available to support the prosecutorial efforts of counties.

Cases wholly financed or reimbursed under any other state or federal program including, but not limited to, the Asset Forfeiture Program (Section 11489), the Major Narcotic Vendors Prosecution Law (Section 13881 of the Penal Code), or the California Career Criminal Apprehension Program (Section 13851 of the Penal Code), shall not be entitled to reimbursement under this subdivision.

(b) To the extent moneys are available therefor, the Controller,

in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,250,000 for law enforcement personnel expenses, not exceeding ten thousand dollars ($10,000) per case, incurred in the investigation of violations, attempts to violate, or conspiracies to violate Section 11100, 11100.1, 11104, 11105, 11379.6, or 11383 initiated after January 1, 1987. All funds allocated to a county under this subdivision shall be distributed by it only to its law enforcement agency to be used solely for investigation and detection of these offenses. Funds distributed under this subdivision shall not be used to supplant any local funds that would, in the absence of this subdivision, be made available to support the law enforcement efforts of counties. Cases financed or reimbursed under any other state or federal program, including, but not limited to, the Asset Forfeiture Program, (Section 11489), the California Career Criminal Apprehension Program (Section 13851 of the Penal Code), or the federal Asset Forfeiture Program (21 U.S.C. Sec. 881), shall not be entitled to reimbursement under this subdivision.

(c) (1) To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,250,000 for costs incurred by, or at the direction of, state or local law enforcement agencies to remove and dispose of or store toxic waste from the sites of laboratories used for the unlawful manufacture of a controlled substance.

(2) The local law enforcement agency or Department of Justice shall notify the local health officer within 24 hours of the seizure of a laboratory used for the unlawful manufacture of a controlled substance. The local health officer shall either:

(A) Make a determination as to whether the site poses an immediate threat to public health and safety, and if so, shall undertake immediate corrective action.

(B) Notify the State Department of Health Services.

As used in this section, "counties" includes any city within a county with a population of less than 1,250,000.

The Department of Justice may adopt emergency regulations consistent with this section and the Administrative Procedure Act.

SEC. 4. Section 3 of this bill incorporates amendments to Section 11642 of the Health and Safety Code proposed by both this bill and AB 2671. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1988, but AB 2671 becomes operative first, (2) each bill amends Section 11642 of the Health and Safety Code, and (3) this bill is enacted after AB 2671, in which case Section 11642 of the Health and Safety Code, as amended by AB 2671, 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. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund to the State

Department of Health Services to be deposited in the Clandestine Drug Lab Clean-up Account, which is hereby established, for purposes of funding the costs incurred in the undertaking of immediate corrective actions at the site of a release of a hazardous substance, if the site is either of the following:

(a) A seized laboratory used for the unlawful manufacture of a controlled substance.

(b) An abandoned hazardous waste site related to the unlawful manufacture of a controlled substance.

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1296

An act to add a heading to, and to add Article 2 (commencing with Section 66910) to, Chapter 11 of Part 40 of the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987.]

I am deleting $20,000 appropriation contained in Section 3 of Assembly Bill No 2016.

This bill would require the California Postsecondary Education Commission to report by January 1, 1989, on state options for funding higher education based on assessment of students and programs, on value-added, or similar performance, or incentive funding measures Also, this bill contains a $20,000 appropriation to fund the study

The demands placed on budget resources require all of us to set priorities The budget enacted in July, 1987 appropriated nearly $41 billion in state funds This amount is more than adequate to provide the necessary essential services provided for by State Government. It is not necessary to put additional pressure on taxpayer funds for programs that fall beyond the priorities currently provided

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties

I would, however, consider funding the provisions of this bill during the budget process for Fiscal Year 1988–89 It is appropriate to review the relative merits of this program in comparison to all other funding projects The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit

With this deletion, I approve Assembly Bill No. 2016.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. A heading immediately following the chapter heading is added to Chapter 11 (commencing with Section 66900) of

Part 40 of the Education Code, to read:

Article 1. General Provisions

SEC. 2. Article 2 (commencing with Section 66910) is added to Chapter 11 of Part 40 of the Education Code, to read:

Article 2. Higher Education Talent Development Act of 1987

66910. The Legislature finds and declares the following:

(a) The primary goal of every educational institution should be to improve and add to the intellectual and personal development of each student.

(b) The ultimate measure of the effectiveness of an educational institution is the success of its students in acquiring knowledge, competencies, and skills in learning their meaningful application; in forming reasoned attitudes, and in examining and adopting values; and in developing the capacity for further learning.

(c) Educational institutions should have the capacity to create educational environments, teaching practices, and evaluative procedures which enable, stimulate, and encourage significant learning for students served.

(d) The measures of quality in most colleges and universities often fail to evaluate the impact of the institution on the improvement of the individual students from entrance to graduation or otherwise leaving the institution.

(e) The State of California spends nearly five billion dollars ($5,000,000,000) annually on its system of higher education, but the budget formulas tend to be based more on enrollments and physical space needs than on rewarding institutions for improvement of student learning.

(f) While every student has a certain amount of underdeveloped educational potential, California students appear to fall short of meeting their potential as evidenced by the need for a high number of remedial course offerings and inadequate student retention rates.

(g) Future success in coping with California's critical problems through higher education will depend on the development of new partnerships and a more cooperative approach to common issues, such as transfer and minority student access and retention efforts, on the part of all segments of education, kindergarten through the university.

(h) The public would benefit greatly and be well served by maximizing educational potentials and improving student performance.

66911. The California Postsecondary Education Commission, after consulting with students, faculty, staff, and administrators, at the state and local campus levels and from all segments of public postsecondary education, shall develop and present possible options for all of the following:

(a) Measuring and implementing talent development or value added approaches to higher education.

(b) An incentive funding approach designed to develop appropriate methods of assessing the teaching and learning process. This assessment shall include, but not be limited to, an evaluation of the usefulness of the following higher education outcomes criteria:

(1) The percentage of programs eligible for accreditation that are accredited.

(2) The percentage of the programs that have undergone peer review and that have administered a comprehensive exam to academic majors.

(3) The value added by the general education component of the curriculum, as demonstrated by the students' performance on examinations taken at different intervals during a student's experience.

(4) Demonstration that generalizations about the quality of academic programs or services derived from surveys of enrolled students, alumni, community members, and employers have formed the basis for specific improvement in campus programs and services.

(5) Demonstration that the quality of teaching has improved as evidenced by items, including, but not limited to, the following:

(A) Student evaluations of faculty and teaching assistants.

(B) Availability and utilization of teaching improvement programs for faculty and teaching assistants.

(C) The number of undergraduate classes taught by ladder rank faculty.

(D) Faculty involvement in academic advising and class size.

(6) Demonstration that the quality of campus life has increased as evidenced by items, including, but not limited to, the availability of quality student support services, including, but not limited to, affordable student housing, child care services, and academic and personal counseling.

(7) Demonstration of an improvement in the number of women and minorities enrolled in, and graduating from, the institutions and the number of students successfully transferring from community colleges to baccalaureate degree-granting institutions.

(8) The implementation of a campuswide plan for instructional improvement based on findings derived from the above procedures.

66912. Pursuant to Section 66911, the California Postsecondary Education Commission shall be guided by the following principles as set forth in its report "Funding Excellence in California Higher Education," prepared in response to Resolution Chapter 115, Statutes of 1986:

(a) State funding incentives to promote quality in California higher education should be funds that are supplementary to the institution's base budget and premised on a cooperative model, where financial incentives are geared toward the aggregate performance of the state's whole system of higher education.

(b) State funding incentives to promote quality improvement in

higher education should recognize that value-added assessments are of greatest value when linked with other data about the students' educational experience and when used for institutional self-assessment, student counseling, and program evaluation.

(c) State funding incentives to promote quality improvement in higher education should establish that outcome measurements shall be tied to the multiplicity of missions, goals, and functions of the different segments and institutions of higher education in California.

(d) State policy on assessment and quality improvement in California higher education should establish that the primary objective is to assist faculty and students to improve the teaching-learning process, and that the definition and assessment of student outcomes and competency standards at the course, program, and departmental level is primarily a faculty responsibility and one that should be influenced by student opinion.

(e) The state-level assessment and incentive-funding strategy adopted in California to improve the quality of higher education should be developed as carefully and rapidly as feasible, and be frequently reevaluated in order to ensure effectiveness.

(f) The state-level strategy adopted in California to fund and promote excellence in higher education shall recognize that appropriate assessment is but one characteristic of an effective institution. The state needs to support and promote a number of other institutional activities or practices that not only complement the assessment function but that, in toto, must exist in order to achieve institutional excellence.

66913. The California Postsecondary Education Commission shall submit a report to the Governor and Legislature not later than January 1, 1989, detailing the results of this study and recommendations for implementation of state policy to achieve the intent of this article.

SEC. 3. The sum of twenty thousand dollars ($20,000) is hereby appropriated from the General Fund to the California Postsecondary Education Commission for the funding of that portion of Article 11 (commencing with Section 66910) of Chapter 11 of Part 40 of the Education Code that is related to the California Community Colleges and the California State University. That portion of the act related to the University of California is to be funded by the California Postsecondary Education Commission from any moneys available to it for this purpose from the Budget Act of 1987.

CHAPTER 1297

An act to repeal Sections 1242.7, 1242.8, and 1242.9 of, and to add Article 3.5 (commencing with Section 1247) to Chapter 3 of Division 2 of, the Business and Professions Code, relating to health, and making an appropriation therefor.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987.]

I am deleting the $8,266 appropriation contained in Section 5 of Assembly Bill No 686.

This bill recasts existing law with respect to hemodialysis technicians and their training requirements. This bill contains an $8,266 appropriation

The demands placed on budget resources require all of us to set priorities The budget enacted in July, 1987 appropriated nearly $41 billion in state funds This amount is more than adequate to provide the necessary essential services provided for by State Government. It is not necessary to put additional pressure on taxpayer funds for programs that fall beyond the priorities currently provided.

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties.

I would, however, consider funding the provisions of this bill during the budget process for Fiscal Year 1988–89 It is appropriate to review the relative merits of this program in comparison to all other funding projects The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit.

With this deletion, I approve Assembly Bill No. 686

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 1242.7 of the Business and Professions Code is repealed.

SEC. 2. Section 1242.8 of the Business and Professions Code is repealed.

SEC. 3. Section 1242.9 of the Business and Professions Code is repealed.

SEC. 4. Article 3.5 (commencing with Section 1247) is added to Chapter 3 of Division 2 of the Business and Professions Code, to read:

Article 3.5. Hemodialysis Training

1247. This article shall be known and may be cited as the Hemodialysis Technician Training Act of 1987.

1247.1. It is the intent of the Legislature, in enacting this article, to resolve confusion and conflict in existing law relating to training requirements for hemodialysis technicians. It is the further intent of the Legislature that this article shall bring about easier administration of the hemodialysis technician training law by the State Department of Health Services and easier compliance with the law by individual technicians and hemodialysis facilities.

1247.2. For the purpose of this article, the following terms have the following meaning:

(a) "Immediate supervision" means supervision of dialysis

treatment in the same room in which the dialysis treatment is being performed.

(b) "Department" means the State Department of Health Services.

(c) "Hemodialysis technician" means an unlicensed health care provider who is employed by a hemodialysis clinic or unit for the purpose of participating in the direct treatment of patients undergoing hemodialysis.

1247.3. The treatment of patients by a hemodialysis technician includes performing venipuncture and arterial puncture for the purpose of providing dialysis treatment for a patient. The treatment of patients includes the administration of local anesthetics, heparin, and sodium chloride solutions. The administration of these medications shall be pursuant to protocol established by the medical director of the hemodialysis clinic or unit and shall be under the immediate supervision of a licensed physician and surgeon or a licensed registered nurse. The administration of local anesthetics shall be limited to intradermal, subcutaneous, or topical administration.

1247.4. The department shall adopt rules and regulations prescribing minimum training standards for hemodialysis technicans who are certified pursuant to paragraphs (2), (3), and (4) of subdivision (a) of Section 1247.6.

1247.5. Except as provided in Section 1247.6, every hemodialysis clinic or unit within a licensed clinic or hospital, as defined respectively in Sections 1204 and 1250 of the Health and Safety Code, or any person operating or using dialysis equipment, other than a dialysis patient, shall adopt a hemodialysis technician training program and competency test which complies with the regulations adopted pursuant to Section 1247.4, and which includes training and testing in the administration of local anesthetics, heparin, and sodium chloride solutions. Every hemodialysis technician shall complete the hemodialysis technician training program and shall pass the hemodialysis technician competency test, or shall be certified as provided in subdivision (a) of Section 1247.6.

1247.6. (a) Rather than conduct a training and testing program, a hemodialysis clinic or unit may employ hemodialysis technicians who meet one or more of the following requirements:

(1) Are certified by the Board of Nephrology Examination for Nurses and Technicians (BONENT) as having passed the BONENT examination.

(2) Are certified by the department as having completed a department-approved training and testing program in a hemodialysis clinic or unit.

(3) Are certified by the department as being graduates of a local training and testing program operated by an accredited college or accredited university. As used in this article, accredited has the same meaning as defined in subdivision (g) of Section 94302 of the Education Code.

(4) Are certified by the department as hemodialysis technicians on or before the effective date of regulations adopted pursuant to Section 1247.4.

(b) A hemodialysis clinic or unit which conducts a training and testing program pursuant to Section 1247.5 also may employ persons described in subdivision (a).

(c) This article does not apply to home dialysis patients, or patient helpers not employed by the licensed facility, who have undergone a home dialysis training program operated by a licensed clinic or hospital as defined in Sections 1204 and 1250 of the Health and Safety Code and have been certified by the medical director of the facility as being competent to perform home dialysis treatment.

1247.7. An employee in training shall be classified as a hemodialysis technician trainee and shall be under the immediate supervision of a licensed physician and surgeon or licensed registered nurse whenever involved in the treatment of a patient, as described in Section 1247.3.

1247.8. Each hemodialysis unit or clinic shall have information available for inspection by the department survey teams which shows the local training program and competency test and the names of all hemodialysis technicians and hemodialysis technician trainees employed in the unit or clinic. Where a hemodialysis unit or clinic does not adopt a local training program and test, it shall provide proof that the hemodialysis technicians employed meet the requirements of subdivision (a) of Section 1247.6.

1247.9. No person or entity shall provide chronic dialysis services to patients in this state unless the services are provided under the direction of a chronic dialysis clinic, licensed pursuant to Section 1204 of the Health and Safety Code, or a general acute care hospital, licensed pursuant to Section 1250 of the Health and Safety Code.

SEC. 5. The sum of eight thousand two hundred sixty-six dollars ($8,266) is hereby appropriated from the General Fund to the State Department of Health Services for the implementation of this act.

CHAPTER 1298

An act to amend Sections 7712, 8664.8, and 8664.9 of, to add Section 8664.12 to, to add and repeal Sections 8664.10 and 8664.11 of, and to repeal Section 8610 of, the Fish and Game Code, and to amend Sections 31125, 31126, and 31127 of the Public Resources Code, relating to fishing nets, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 7712 of the Fish and Game Code is amended to read:

7712. Where a fishery is closed or restricted due to the need to protect a fishery resource, marine mammals, or sea birds, or due to a conflict with other fisheries or uses of the marine environment, it shall be the policy of the department and the commission, consistent with budgetary and personnel considerations, to assist and foster the development of alternative fisheries or alternative fishing gear for those commercial fishermen affected by the restrictions, closures, or resource losses, including, but not limited to, the issuing of experimental gear permits pursuant to Section 8606 for alternative fishing methods or fishing gear within state waters and for fisheries for those species which are currently underutilized or for fisheries where there is a determination that a commercial harvest is biologically acceptable, and to give preference to commercial shellfish fishermen affected by resource losses to restore and rebuild shellfish resources. Not more than 12 experimental gear permits shall be issued for the purposes of this section and they shall be issued pursuant to Section 8664.9. The department and commission shall make every effort, consistent with the department's existing budget and personnel resources, to provide observer coverage for alternative or experimental gear permits as required by the commission to provide a representative sample of the impacts that gear may have and its efficacy for use in California fisheries and to determine any change in the maximum sustainable yield of halibut, including the take of halibut by sport fishermen, in fisheries developed as a result of the experimental gear permit program under this section. Administrative procedures shall be expedited for the hiring or contracting for necessary observer personnel to carry out this policy. The commission shall not require complete, 100 percent, observer coverage by the department of the use of alternative fishing methods or fishing gear under an experimental gear permit issued pursuant to Section 8606 for the purpose of carrying out this section unless the reasons for the necessity for complete observer coverage are expressly found by the commission. Nothing in this section precludes the management by the department of the halibut resource at the maximum sustainable yield.

SEC. 2. Section 8610 of the Fish and Game Code is repealed.

SEC. 3. Section 8664.8 of the Fish and Game Code is amended to read:

8664.8. (a) Notwithstanding Sections 8685, 8687, 8696, and 8724, set or drift gill or trammel nets shall not be used on or after April 1, 1987, in the following ocean waters, except as provided in subdivision

(d):

(1) Between a line extending 245° magnetic from the most westerly point of the west point of the Point Reyes headlands in Marin County and the westerly extension of the California-Oregon boundary.

(2) In waters which are 40 fathoms or less in depth at mean lower low water between a line extending 245° magnetic from the most westerly point of the west point of the Point Reyes headlands in Marin County and a line extending due east and west magnetic from Duxbury bouy in Marin County.

(b) Notwithstanding Sections 8687, 8696, and 8724, set or drift gill or trammel nets shall not be used in the following ocean waters from April 1, 1987, to March 31, 1988, except as provided in subdivision (d):

(1) In waters which are 20 fathoms or less in depth at mean lower low water between a line extending due east and west magnetic from Duxbury buoy in Marin County and a line extending 225° magnetic from Franklin Point in San Mateo County.

(2) In waters within five nautical miles of the most westerly point of Point San Pedro.

(c) Notwithstanding Sections 8664.5, 8687, 8696, and 8724, set or drift gill or trammel nets shall not be used on and after April 1, 1988, in waters which are 40 fathoms or less in depth at mean lower low water between a line extending 245° magnetic from the most westerly point of the west point of the Point Reyes headlands in Marin County and a line extending 220° magnetic from the mouth of Waddell Creek in Santa Cruz County.

(d) Subdivisions (a), (b), and (c) do not apply to the following ocean waters:

(1) Drake's Estero and Estero de Limantour.

(2) That part of Tomales Bay which is not part of District 10 pursuant to Section 11018.

(e) Subdivisions (a), (b), and (c) do not apply to the use of set gill nets used pursuant to Article 15 (commencing with Section 8550) of Chapter 2 of Part 3 of Division 6 or regulations adopted under that article or to the use of drift gill nets with a mesh size of 14 inches or more.

(f) (1) Notwithstanding subdivision (b) and Sections 8687, 8696, and 8724, gill or trammel nets shall not be used within three nautical miles of the Farallon Islands, and Noonday Rock buoy in San Francisco County.

(2) If the director determines that the use of set or drift gill or trammel nets is having an adverse impact on any population of any species of sea bird, marine mammal, or fish, the director shall issue an order prohibiting the use of those nets between three nautical miles and five nautical miles of the Farallon Islands and Noonday Rock buoy or any portion of that area. The order shall take effect no later than 48 hours after its issuance. The director shall hold a properly noticed public hearing in a place convenient to the affected area within one week of the effective date of the order to describe

the action taken and shall take testimony as to the effect of the order and determine whether any modification of the order is necessary. Gill and trammel nets used to take fish in District 10 shall be marked at each end with a buoy displaying above its waterline in Arabic numerals at least 2 inches high, the certificate of vessel registration number issued by the department under Section 7881 for the vessel from which the net is being used. Nets shall be marked at both ends and at least every 250 fathoms between the ends with flags of the same color and at least 144 square inches in size, acceptable to the department.

SEC. 4. Section 8664.9 of the Fish and Game Code is amended to read:

8664.9. (a) Except as provided in subdivision (c) of Section 8664.10, with the advice of the Nearshore Research Advisory Committee, the department may issue a permit which is valid only until April 1, 1988, for the use of gill or trammel nets, to each of not more than five individuals who are impacted as described in Section 8664.11, upon application, as selected by the department, for the purpose of providing for a phase-out of the use of gill and trammel nets in areas specified in Section 8664.8 as being closed. If the advisory committee recommends more than five applicants as warranting a permit, the department shall issue five permits through a random drawing of names of those recommended applicants. The permittee may use gill or trammel nets under a permit issued under this section in those areas where that use is otherwise prohibited pursuant to Section 8664.8. The nets used under this section shall not exceed a length of more than 250 fathoms and shall be of such design as the department may specify. The department shall evaluate the effects of the use of gill and trammel nets under this subdivision on sea birds and marine mammals and, if adverse effects on sea birds or marine mammals are found, the director shall revoke the permits.

(b) With the advice of the Nearshore Research Advisory Committee, the department may issue a nontransferrable, revokable permit for the experimental use of Scottish seines, pair trawl, or other alternative gear between a line extending 220° magnetic from the mouth of Waddel Creek in Santa Cruz County and a line extending 270° magnetic from the mouth of the Gualala River near the Sonoma-Mendocino County line to each of no more than seven persons displaced by the closures of ocean water to the use of nets enacted by the statute amending this section at the 1987–88 Regular Session of the Legislature. The department shall evaluate the effects of the experimental gear used under this subdivision on sea birds and marine mammals and, if adverse effects on sea birds or marine mammals are found, the director shall revoke the permits and close this experimental fishery.

SEC. 5. Section 8664.10 is added to the Fish and Game Code, to read:

8664.10. (a) The Nearshore Research Advisory Committee is hereby created. The committee shall consist of five commercial

fishermen, appointed by the director, who are impacted as described in Section 8664.11 by the closure of ocean waters to the use of nets enacted by the statute adding this section at the 1987–88 Regular Session of the Legislature, five persons appointed by the director who are representatives of groups of people dedicated to the preservation of sea birds and marine mammals, one person appointed by the director who is a representative of sport fishermen and who is not involved in any commercial fishing activity in the area affected by Section 8664.8, and one representative of the department designated by the director.

(b) The committee shall advise the department on experimental gear research permits issued under Section 8664.9.

(c) The department shall not issue a permit pursuant to Section 8664.9 to a fisherman serving as a member of the Nearshore Research Advisory Committee.

(d) Subject to the availability of funds, the department may employ or contract for the services of a gill net and alternative gear coordinator to provide assistance to fishermen affected by this article to develop alternative gear or to enter new fisheries.

(e) 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. 6. Section 8664.11 is added to the Fish and Game Code, to read:

8664.11. Notwithstanding the prohibition against the transfer of a permit in Sections 1052 and 8681, any person, whose existing permit to use gill and trammel nets issued pursuant to Section 8681 which is valid for the period of April 1, 1987, to March 31, 1988, has been impacted by the amendments to Section 8664.8 enacted by the statute amending that section at the 1987–88 Regular Session of the Legislature, may transfer the gill and trammel net permit to any person who possesses a valid California commercial fishing license and meets the requirements of Article 5 (commencing with Section 8680), as determined by the department, for use in other fisheries outside of the affected area. A fisherman to whom a general gill and trammel net permit is transferred shall first meet the qualifications for the permit pursuant to Article 5 (commencing with Section 8680). Any transfer made pursuant to this section shall be reported to the department's Eureka, Menlo Park, Monterey, or Long Beach offices within five working days of the transfer.

For purposes of this section, a person whose permit issued pursuant to Section 8681 is impacted is a person who caught and landed at least 500 pounds of halibut, 1,000 pounds of white croaker, 500 pounds of shark, 500 pounds of starry flounder, or 2,000 pounds of any combination of the above species in Districts 10 and 17 during the 1986–87 or 1987–88 permit year or a person who, prior to the effective date of this section, filed an appeal of a denial of a special permit pursuant to former Section 8610, as it read prior to being repealed by the act enacting this section, which appeal was upheld

by the commission Only landings which can be verified by landing receipts submitted to the department pursuant to Section 8043 shall be used to determine qualified impacted permittees who are eligible to transfer a permit. The Legislature finds and declares that this special provision is necessary for reasons of hardship to the affected fishermen, to provide them with necessary opportunities to enter new fisheries or other business endeavors.

This section shall remain in effect only until June 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before June 1, 1988, deletes or extends that date.

SEC. 7. Section 8664.12 is added to the Fish and Game Code, to read:

8664.12. (a) Notwithstanding Section 31125.5 of the Public Resources Code, any fisherman may apply for alternative gear financing pursuant to Section 31125 of the Public Resources Code if that fisherman possessed a special permit, which was issued pursuant to former Section 8610 as it read before the enactment of Chapter 1245 of the Statutes of 1986 and obtains an experimental gear permit from the department pursuant to Section 8664.9, and if the fisherman meets the requirements of either of the following:

(1) The person's special permit was impacted as described in Section 8664.11.

(2) Before the enactment of this section, the person filed an appeal of a denial of a special permit pursuant to former Section 8610 as it read prior to the enactment of this section.

(b) The annual interest on the loans under this section shall not be less than 6 percent per annum and the term of the loan shall not exceed seven years.

SEC. 8. Section 31125 of the Public Resources Code is amended to read:

31125. (a) The conservancy shall allocate four hundred fifty thousand dollars ($450,000) from moneys available to or received by it to carry out the alternative fishing gear loan program prescribed in Article 1.5 (commencing with Section 8612) of Chapter 3 of Part 3 of Division 6 of, and Section 8664.12 of, the Fish and Game Code and Section 31125.5.

(b) On and after September 20, 1986, and before January 1, 1988, the money allocated by subdivision (a) shall be allocated in the order prescribed in the following schedule:

(1) At least one hundred fifty thousand dollars ($150,000) shall be allocated for loans for experimental fishing gear to permittees within nearshore areas north of a line due west from Point Sur in Monterey County where gill nets and trammel nets are restricted in order to protect marine birds and mammals.

(2) After the allocation in paragraph (1) is made, at least two hundred thousand dollars ($200,000) shall be allocated for loans for experimental fishing gear to permittees within nearshore areas between a line due west from Point Sal in Santa Barbara County to a line due west from Point Sur in Monterey County where gill nets

and trammel nets are restricted in order to protect marine birds and mammals.

(3) After the allocations in paragraphs (1) and (2) are made, at least one hundred thousand dollars ($100,000) shall be allocated for loans for experimental fishing gear to permittees within nearshore areas north of a line due west of Point Conception in Santa Barbara County where gill nets and trammel nets cannot be used in order to protect marine birds and mammals.

(c) On or after January 1, 1988, the allocation schedule in subdivision (b) is inoperative, and that subdivision has no force or effect.

(d) Of the amounts allocated pursuant to subdivision (a) which are unencumbered on April 1, 1988, the conservancy shall allocate not to exceed one hundred thousand dollars ($100,000) for low interest loans in accordance with Section 13 of Senate Bill No. 40 of the 1987–1988 Regular Session of the Legislature. No new loans shall be executed under the loan program on or after January 1, 1990.

SEC. 9. Section 31126 of the Public Resources Code is amended to read:

31126. The conservancy shall review the status and effectiveness of the alternative fishing gear loan program and report its findings and recommendations to the Legislature on or before April 1, 1989. The report shall include all of the following:

(a) Information from the Department of Fish and Game on the number of experimental fishing gear permits that have been approved; the areas of the state where operations under the permits have occurred; the number in operation; the number revoked; and the number terminated.

(b) Information from the Department of Fish and Game, or its designee, on the effectiveness of the experimental fishing gear permits in protecting marine resources while providing a commercial harvest for the fishing industry.

(c) Information on the number of loans issued; interest earned; the number of defaults, terminations, or revocations; and the number of outstanding loans.

SEC. 10. Section 31127 of the Public Resources Code is amended to read:

31127. Notwithstanding Section 31126, if, after its review of the alternative fishing gear loan program, and submittal of its report to the Legislature, there appears to be a lack of interest in continuing the alternative fishing gear loan program, the conservancy may elect to terminate the loan program for the year beginning on April 1, 1989. However, if the conservancy continues the program, it shall submit a final report containing the information required in Section 31126 to the Legislature on or before April 1, 1989.

SEC. 11. The Legislature hereby finds and declares that it is the public policy of the state to protect and foster its valuable fishing industry, the employment and nutritional products it provides the people of this state, and to lend assistance to fishermen, many of

whom are of low income or refugees, to develop alternative fishing gear or enter new fisheries when the existing fishing gear they have used, pursuant to valid permits and licenses issued by the state, is found to have a deleterious effect on nontarget marine birds and mammals. The Legislature finds that the closures enacted in Section 8664.8 of the Fish and Game Code are unique and, unlike other restrictions placed on fishing operations, are for the purpose of protecting marine birds and mammals and are not necessary or required for the preservation of the species of fish being targeted by the gill and trammel nets subject to prohibitions in Section 8664.8 of the Fish and Game Code. Closures in Section 8664.8 of the Fish and Game Code are of such magnitude that in many instances gill and trammel net fishing gear, as a practical matter, is no longer usable in the affected area. Therefore, all persons so impacted by the closures in Section 8664.8 of the Fish and Game Code, as described in Section 8664.11 of the Fish and Game Code, may apply for a low-interest loan pursuant to Section 8664.12 of the Fish and Game Code.

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.

SEC. 13. The sum of not more than two hundred thousand dollars ($200,000) is hereby appropriated as follows:

(a) From the amounts allocated pursuant to subdivision (a) of Section 31125 of the Public Resources Code, which are unencumbered on April 1, 1988, the sum of not more than one hundred thousand dollars ($100,000) is reappropriated to the State Coastal Conservancy for purposes of assisting fishermen pursuant to Section 31125.5 of the Public Resources Code and Section 8664.12 of the Fish and Game Code. The conservancy shall make low-interest loans to fishermen meeting the qualifications developed by the conservancy pursuant to Chapter 910 of the Statutes of 1986. Within six months of the repayment of each of the loans, the money repaid shall be deposited in the State Coastal Conservancy Fund. Until January 1, 1989, the State Coastal Conservancy shall give priority to persons eligible for loans under Section 31125.5 of the Public Resources Code, and, thereafter, shall give no preference to persons eligible for loans under either Section 31125.5 of the Public Resources Code or Section 8664.12 of the Fish and Game Code. No new loans shall be made from this allocation on or after January 1, 1990.

(b) From the California Environmental License Plate Fund, the sum of one hundred thousand dollars ($100,000) to the Department of Fish and Game for purposes of assessing and monitoring alternative gear fishing activities and effects upon marine life.

SEC. 14. The Legislature finds and declares that, consistent with the policies of Sections 1700 and 7712 of the Fish and Game Code, it

is in the public interest to continue to assess the effectiveness, and the effects upon marine resources, of the use of existing and experimental fishing gear. These assessments, which require monitoring at sea, have been supported in part since 1982 by contributions from a private foundation and by federal and state assistance. Therefore, it is increasingly necessary to provide for these continued monitoring and assessment activities.

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the closures to the use of fishing nets effective in the next fishing season, it is necessary that this act take effect immediately.

CHAPTER 1299

An act to amend Section 6348.2 of the Business and Professions Code, and to amend Section 17788 of the Education Code, relating to public agencies, and making an appropriation therefor.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 6348.2 of the Business and Professions Code is amended to read:

6348.2. When a board of law library trustees in any county determines to erect a library building to house the law library, it may borrow money for that purpose and repay the loan from its future income. The board may borrow the money from any person, or private or public agency, or corporation, in an amount not exceeding half of the funds of the board allocated to the construction of the building, upon such terms as may be agreed upon by the board and the lender and approved by resolution of the board of supervisors of the county.

SEC. 2. Section 17788 of the Education Code is amended to read:

17788. In addition to any other powers and duties as are granted the board by this chapter, other statutes, or the State Constitution, the board has the power to do each of the following:

(a) Establish any qualifications not in conflict with other provisions of this chapter, as it deems will best serve the purposes of this chapter, for determining the eligibility of school districts and county superintendents of schools to lease portable classrooms under this chapter.

(b) Establish any procedures and policies in connection with the administration of this chapter as it deems necessary.

(c) Adopt any rules and regulations for the administration of this chapter requiring such procedure, forms, and information, as it may deem necessary.

(d) Have constructed, furnished, equipped, or otherwise require whatever work is necessary to place, portable classrooms on school sites where needed.

(e) Own, have maintained, and lease portable classrooms to qualifying school districts and county superintendents of schools.

(f) From any moneys in the State School Building Aid Fund available for purposes of this chapter, the board shall make available to the Director of General Services such amounts as it determines necessary to provide the assistance, pursuant to this chapter, required by Section 15504 of the Government Code.

(g) Notwithstanding any other provision of law, from any funds available to the board, the board may, no later than January 15 of any year, make available to the Director of General Services up to thirty-five million dollars ($35,000,000) for expenditure in the subsequent school year. It is the intent of the Legislature that this allocation be annually funded from an appropriation made for this purpose by the Legislature in the Budget Act for the fiscal year in which the board is to act to make that funding available. These funds shall be utilized to purchase portable classrooms for the purposes of this section.

SEC. 3. Notwithstanding any other provision of law, any claim for reimbursement for costs incurred during the 1983–84 fiscal year under a voluntary program adopted by the Riverside Unified School District in 1965 and designed to remedy the harmful effects of racial segregation, which claim was received by the Controller on or after July 8, 1986, but no later than December 18, 1986, and is approved under Section 42249 of the Education Code, may be paid by the Controller from funds appropriated from Item 6100-115-001 of Section 2.00 of the Budget Act of 1987 in an amount not to exceed the lesser of costs approved by the Controller or one hundred ten thousand one hundred eighty-six dollars ($110,186).

SEC. 4. Due to the unique circumstances concerning the Riverside Unified School District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

CHAPTER 1300

An act to amend Section 6359.4 of, and to add Section 6359.2 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987.]

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

SECTION 1. Section 6359.2 is added to the Revenue and Taxation Code, to read:

6359.2. (a) Except as otherwise provided in Sections 6359.4, 6359.45, 6363, and 6370, for the year beginning on January 1, 1988, and ending on December 31, 1988, 77 percent of the gross receipts of any retailer from the sale at retail of food products (other than hot prepared food products, as defined in Section 6359) shall be subject to the tax imposed by Section 6051, when those food products are actually sold through a vending machine.

(b) Except as otherwise provided in Sections 6359.4, 6359.45, 6363, and 6370, for the year beginning on January 1, 1989, and ending on December 31, 1989, 55 percent of the gross receipts of any retailer from the sale at retail of food products (other than hot prepared food products, as defined in Section 6359) shall be subject to the tax imposed by Section 6051, when those food products are actually sold through a vending machine.

(c) Except as otherwise provided in Sections 6359.4, 6359.45, 6363, and 6370, for the year beginning on January 1, 1990, and thereafter, 33 percent of the gross receipts of any retailer from the sale at retail of food products (other than hot prepared food products, as defined in Section 6359) shall be subject to the tax imposed by Section 6051, when those food products are actually sold through a vending machine.

(d) The Legislature finds that 33 percent represents the statewide average of cold food products sold through vending machines which are subject to the tax imposed under this part. Therefore, the Legislature establishes this average as the measure of the tax with respect to vending machine sales to simplify tax auditing procedures and to provide for uniformity in the taxation of gross receipts derived from the sale of cold food products through vending machines.

The Legislature also finds that due to fiscal constraints, it is necessary to phase in the partial exemption for sales made through vending machines in the 1988 and 1989 calendar years.

SEC. 2. Section 6359.4 of the Revenue and Taxation Code is amended to read:

6359.4. (a) 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.

(b) Notwithstanding subdivision (a), any vending machine operator is a consumer of, and shall not be considered a retailer of, food products, other than beverages or hot prepared food products, which are sold through a coin-operated bulk vending machine if the amount of each sale is twenty-five cents ($0.25) or less. For purposes of this subdivision, "bulk vending machine" means a vending machine containing unsorted food products other than beverages or hot prepared food products which, upon insertion of a coin, dispenses those food products in approximately equal portions, at random, and without selection by the customer.

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 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 1301

An act to amend Sections 40420, 40422, 40424, 40426, 40440, 40462, 40469, 40482, 40504, 40506, and 40509 of, to add Sections 40405, 40406, 40426.5, 40426.7, 40447.5, 40447.6, and 40451 to, to add and repeal Section 40501.2 of, and to repeal Section 40421 of, the Health and Safety Code, relating to the South Coast Air Quality Management District.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987.]

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

SECTION 1. Section 40405 is added to the Health and Safety Code, to read:

40405. (a) As used in this chapter, "best available control technology" means an emission limitation that will achieve the lowest achievable emission rate for the source to which it is applied. Subject to subdivision (b), "lowest achievable emission rate," as used in this section, means the more stringent of the following:

(1) The most stringent emission limitation that is contained in the state implementation plan for the particular class or category of source, unless the owner or operator of the source demonstrates that the limitation is not achievable.

(2) The most stringent emission limitation that is achieved in practice by that class or category or source.

(b) "Lowest achievable emission rate" shall not be construed to authorize the permitting of a proposed new source or a modified source that will emit any pollutant in excess of the amount allowable under the applicable new source standards of performance.

SEC. 1.5. Section 40406 is added to the Health and Safety Code, to read:

40406. As used in this chapter, "best available retrofit control technology" means an emission limitation that is based on the maximum degree of reduction achievable, taking into account environmental, energy, and economic impacts by each class or category of source.

SEC. 2. Section 40420 of the Health and Safety Code is amended to read:

40420. (a) The south coast district shall be governed by a district board consisting of 11 members appointed as follows:

(1) One member appointed by the Governor, with the advice and consent of the Senate.

(2) One member appointed by the Senate Committee on Rules.

(3) One member appointed by the Speaker of the Assembly.

(4) Four members appointed by the boards of supervisors of the counties in the south coast district. Each board of supervisors shall appoint one of these members, who shall be one of the following:

(A) A member of the board of supervisors of the county making the appointment.

(B) A mayor or member of a city council from a city in the portion of the county making the appointment that is included in the south coast district.

(5) Four members appointed by cities in the south coast district. The city selection committee of each county included in the south coast district shall appoint one of these members, who shall be either a mayor or a member of the city council of a city in the portion of the county included in the south coast district.

(b) All members shall be appointed 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 of the South Coast Air Basin.

(c) The member appointed by the Governor shall be either a physician who has training and experience in the health effects of air pollution, an environmental engineer, a chemist, a meteorologist, or a specialist in air pollution control.

(d) Each member shall be appointed on the basis of his or her ability to attend substantially all meetings of the south coast district board, to discharge all duties and responsibilities of a member of the south coast district board on a regular basis, and to participate actively in the affairs of the south coast district. No member may designate an alternate for any purpose or otherwise be represented by another in his or her capacity as a member of the south coast district board.

(e) Each appointment by a board of supervisors shall be considered and acted on at a duly noticed, regularly scheduled hearing of the board of supervisors, which shall provide an opportunity for testimony on the qualifications of the candidates for appointment.

(f) The appointments by cities in the south coast district shall be considered and acted on at a duly noticed meeting of the city selection committee, which shall meet in a government building and provide an opportunity for testimony on the qualifications of the candidates for appointment. The appointment shall be made by not less than two-thirds of all the cities in the portion of the county included in the south coast district having not less than two-thirds of the population of all the cities in the portion of the county included in the south coast district. Population shall be determined on the basis of the most recent verifiable census data developed by the Department of Finance. Persons residing in unincorporated areas or areas of a county outside the south coast district shall not be considered for the purposes of this subdivision.

(g) The members appointed by the Senate Committee on Rules and the Speaker of the Assembly shall have one or more of the qualifications specified in subdivision (c) or shall be a public member. No such member appointed may be a locally elected official.

(h) All members shall be residents of the district.

SEC. 3. Section 40421 of the Health and Safety Code is repealed.

SEC. 4. Section 40422 of the Health and Safety Code is amended to read:

40422. (a) The term of each member of the south coast district board shall be four years and until his or her successor is appointed. Any vacancy on the south coast district board shall be filled within 60 days of its occurrence by its appointing authority.

(b) The members first appointed to the board shall classify themselves by lot so that the terms of four members expire January 15, 1990, the terms of four members expire January 15, 1991, and the terms of three members expire January 15, 1992.

(c) Notwithstanding subdivision (a), no member of a board of supervisors, mayor, or member of a city council shall hold office on the south coast district board for more than 60 days after ceasing to be supervisor, mayor, or member of the city council, respectively, and the membership on the board held by that person terminates upon the expiration of that 60-day period. However, any mayor who immediately resumes the office of member of the city council, and any member of a city council who becomes mayor, has not ceased to hold office for the purposes of this subdivision.

(d) Any member who does not attend three consecutive meetings of the south coast district board without good and sufficient cause therefor, shall be removed by the appointing authority. Any member who does not attend three consecutive meetings of the south coast district board, without good and sufficient cause therefor, and is not

thereupon removed by the appointing authority, may be removed by the affirmative vote of at least eight members of the south coast district board.

SEC. 5. Section 40424 of the Health and Safety Code is amended to read:

40424. (a) Except as provided in subdivision (b), six members of the south coast district board shall constitute a quorum, and no official action shall be taken by the south coast district board except in the presence of a quorum and upon the affirmative votes of a majority of the members of the south coast district board.

(b) Notwithstanding subdivision (a), whenever there are two or more vacancies on the south coast district board, five members shall constitute a quorum, and the two vacant positions shall not be counted toward the majority required for official action by the south coast district board. Thereafter, whenever at least one of those vacancies is filled, the quorum and voting requirements of subdivision (a) shall apply.

SEC. 6. Section 40426 of the Health and Safety Code is amended to read:

40426. Each member of the south coast district board shall receive compensation of one hundred dollars ($100) for each day, or portion thereof, but not to exceed one thousand dollars ($1,000) per month, while attending meetings of the south coast district board or any committee thereof or, upon authorization of the south coast district board, while on official business of the south coast district, and the actual and necessary expenses incurred in performing the member's official duties.

SEC. 7. Section 40426.5 is added to the Health and Safety Code, to read:

40426.5. (a) Upon the request of any person, or on his or her own initiative, the Attorney General may file a complaint in the superior court for the county in which the south coast district board has its principal office alleging that a member of the south coast district board knowingly or willfully violated any provision of Title 9 (commencing with Section 81000) of the Government Code, setting forth the facts upon which the allegation is based, and asking that the member be removed from office. Further proceedings shall be in accordance as near as may be with rules governing civil actions. If, after trial, the court finds that the member of the south coast district board knowingly violated this section, it shall issue an order removing the member from office.

(b) The remedy provided in this section is in addition to, and not to the exclusion of, any other remedy, sanction, or penalty available pursuant to law.

SEC. 8. Section 40426.7 is added to the Health and Safety Code, to read:

40426.7. (a) No retired, dismissed, or separated employee or officer of the south coast district, or member of the south coast district board, shall participate in any contract of the district in which

he or she engaged in any of the negotiations, transactions, planning, arrangements, or any part of the decisionmaking process relevant to the contract while acting in the capacity of employee or officer of the south coast district, or member of the south coast district board, during the 24-month period commencing on the date the person became retired, dismissed, or separated from service with the south coast district or ceased being a member of the south coast district board.

(b) For a period of 12 months following retirement, dismissal, or separation from service with the south coast district, no former employee or officer of the south coast district, or member of the south coast district board, shall enter into a contract with the south coast district if that person had been with the south coast district in a position involving making any decision, giving or withholding any approval, making any recommendation, rendering any advice, or conducting any investigation concerning the general subject of the proposed contract within 12 months prior to retirement, dismissal, or separation from service with the south coast district. Notwithstanding the prohibitions in this subdivision, the south coast district board may, however, by a two-thirds vote, enter into a contract with a retired employee of the south coast district or an employee who separated under conditions satisfactory to the south coast district if the south coast district board finds and determines that, at the time of the retirement or separation, the employee was working on one or more programs that are of great importance to the south coast district, that the services of the employee are necessary to assure the continued effectiveness of the program or programs, that the contract is only for that period of time necessary to complete the employee's work on the program or programs, and that the employee is the most qualified person to provide the needed services.

(c) No former employee or officer of the south coast district previously holding a position designated in the conflict-of-interest code of the south coast district, and no member of the south coast district board, who was, at any time while in the service of the south coast district, involved in making any decision, giving or withholding any approval, making any recommendation, rendering any advice, or conducting any investigation involving a particular person shall, with respect to any of these matters that the former employee, officer, or member of the south coast district board was involved in, do any of the following:

(1) Act as an agent or attorney, or otherwise represent, that person in an appearance before the south coast district board or the hearing board.

(2) Make a communication on behalf of that person with the intent to influence the south coast district board or its officers or employees or the hearing board.

(3) Represent, aid, counsel, advise, consult with, or otherwise assist that person in connection with any of these matters in any

capacity.

(4) Knowingly enter into a contract or accept employment for any purpose specified in this subdivision.

(d) Any violation of this section is a misdemeanor.

(e) This section shall become operative on July 1, 1988.

SEC. 9. Section 40440 of the Health and Safety Code is amended to read:

40440. (a) The south coast district board shall adopt rules and regulations that carry out the plan and are not in conflict with state law and federal laws and rules and regulations. Upon adoption and approval of subsequent revisions of the plan, these rules and regulations shall be amended, if necessary, to conform to the plan.

(b) The rules and regulations adopted pursuant to subdivision (a) shall do all of the following:

(1) Require the use of best available control technology for new and modified sources and the use of best available retrofit control technology for existing sources.

(2) Promote cleaner burning alternative fuels.

(3) Consistent with Section 40414, provide for indirect source controls in those areas of the south coast district in which there are high-level, localized concentrations of pollutants or with respect to any new source that will have a significant effect on air quality in the South Coast Air Basin.

(4) Provide for transportation control measures, as listed in the plan.

(c) The south coast district board shall adopt rules and regulations that will assure that all its administrative practices and the carrying out of its programs are efficient and cost-effective, consistent with the goals of achieving and maintaining federal and state ambient air quality standards and achieving the purposes of this chapter.

SEC. 10. Section 40447.5 is added to the Health and Safety Code, to read:

40447.5. Notwithstanding any other provision of law, the south coast district board may adopt regulations that do all of the following:

(a) Require operators of public and commercial fleet vehicles, consisting of 15 or more vehicles under a single owner or lessee and operating substantially in the south coast district, when adding vehicles to or replacing vehicles in an existing fleet or purchasing vehicles to form a new fleet, to purchase vehicles which are capable of operating on methanol or other equivalently clean burning alternative fuel and to require that these vehicles be operated, to the maximum extent feasible, on the alternative fuel when operating in the south coast district. Notwithstanding Section 39021, as used in this subdivision, the term "commercial fleet vehicles" is not limited to vehicles that are operated for hire, compensation, or profit. No regulation adopted pursuant to this paragraph shall apply to emergency vehicles operated by local law enforcement agencies, fire departments, or to paramedic and rescue vehicles until the south coast district board finds and determines that the alternative fuel is

available at sufficient locations so that the emergency response capabilities of those vehicles is not impaired.

(b) Encourage and facilitate ridesharing for commuter trips into, out of, and within the south coast district.

(c) Prohibit or restrict the operation of heavy-duty trucks during hours of heaviest commuter traffic on freeways and other high traffic volume highways. In adopting regulations pursuant to this paragraph, the south coast district shall consult with the Department of Transportation and the Department of the California Highway Patrol and the transportation commission of each county in the south coast district. No regulation adopted pursuant to this paragraph shall, however, prohibit or restrict the operation of any heavy-duty truck engaged in hauling solid or hazardous waste or a toxic substance if that truck is required to be operated at certain times of day pursuant to an ordinance adopted for the protection of public health or safety by a city or county or any heavy-duty truck required to be operated at certain times of the day pursuant Section 25633 of the Business and Professions Code.

SEC. 11. Section 40447.6 is added to the Health and Safety Code, to read:

40447.6. (a) Notwithstanding any other provision of law, the south coast district board may, subject to the approval of the state board, adopt regulations that specify the composition of diesel fuel manufactured for sale in the south coast district. These regulations shall impose requirements at least as stringent as those of the state board. No regulation shall be adopted pursuant to this section until the south coast district has evaluated the safety of any fuel of a particular composition proposed to be required by the regulations. This section shall become operative January 1, 1989.

(b) In adopting regulations pursuant to this section, the south coast district board shall consider the effect of the regulation on emissions, public health, ambient air quality, and visibility in the south coast air basin; the technological feasibility and economic costs and benefits of the regulation compared to other available measures; and the availability of low emission and alternative fueled vehicles and alternative fuels.

SEC. 12. Section 40451 is added to the Health and Safety Code, to read:

40451. (a) The south coast district shall use the Pollutant Standards Index developed by the Environmental Protection Agency and shall report and forecast pollutant levels daily for dissemination in the print and electronic media.

(b) Using existing communication facilities available to it, the south coast district shall notify all schools in the South Coast Air Basin whenever any federal primary ambient air quality standard is predicted to be exceeded.

(c) Whenever it becomes available, the south coast district shall disseminate to schools, amateur adult and youth athletic organizations, and all public agencies operating parks and

recreational facilities in the south coast district the latest scientific information and evidence regarding the need to restrict exercise and other outdoor activities during periods when federal primary air quality standards are exceeded.

(d) Once every two months and annually, the south coast district shall report on the number of days and locations that federal and state ambient air quality standards were exceeded and the number of days and locations of these occurrences.

SEC. 13. Section 40462 of the Health and Safety Code is amended to read:

40462. The plan and subsequent revisions shall contain deadlines for compliance with the federally mandated attainment of primary ambient air quality standards. The plan and subsequent revisions shall contain deadlines and schedules to achieve the state ambient air quality standards by the earliest date achievable by the application of all reasonably available control measures and technologies, including, but not limited to, the best available control technology, indirect source controls, and transportation control measures, and the use of cleaner burning alternative fuels. The plan and subsequent revisions shall contain deadlines and schedules to achieve the federal secondary ambient air quality standards by the earliest date achievable by the application of all reasonably available control measures and technologies.

The plan and subsequent revisions shall ensure that future economic growth and development in the South Coast Air Basin is, to the maximum extent feasible, consistent with the goals of achieving and maintaining those air quality standards. The revisions to the plan shall identify the resources necessary to carry out its provisions, including enforcement costs and the effect of its provisions on energy resources.

SEC. 14. Section 40462 of the Health and Safety Code is amended to read:

40462. (a) The plan and subsequent revisions shall contain deadlines for compliance with the federally mandated attainment of primary ambient air quality standards. The plan and subsequent revisions shall contain deadlines and schedules to achieve the state ambient air quality standards by the earliest date achievable by the application of all reasonably available control measures and technologies, including, but not limited to, the best available control technology, indirect source controls, and transportation control measures, and the use of cleaner burning alternative fuels. The plan and subsequent revisions shall contain deadlines and schedules to achieve the federal secondary ambient air quality standards by the earliest date achievable by the application of all reasonably available control measures and technologies.

(b) The plan and subsequent revisions shall ensure that future growth and development in the South Coast Air Basin and within the sensitive zone established pursuant to subdivision (a) of Section 40410.5 are, to the maximum extent feasible, consistent with the goal

of achieving and maintaining those air quality standards. The revisions to the plan shall identify the resources necessary to carry out its provisions, including enforcement costs and the effect of its provisions on energy resources.

SEC. 15. Section 40469 of the Health and Safety Code is amended to read:

40469. (a) Following submittal by the south coast district, the state board shall review the plan to determine its adequacy to meet federally mandated primary ambient air quality standards and all other requirements of the Clean Air Act (42 U.S.C. Sec. 7401 et seq.) and its adequacy to attain state ambient air quality standards through application of the best available control technology, indirect source controls, transportation control measures, and the use of cleaner burning alternative fuels. If the state board determines that portions of the plan meet the requirements of the Clean Air Act, it shall adopt and submit to the Environmental Protection Agency the portions of the plan required by the Clean Air Act within 120 days after receipt of the plan from the south coast district.

(b) If the state board determines that the plan does not meet all the requirements of the Clean Air Act, or does not include a deadline for the attainment of the state ambient air quality standards by application of the best available control technology, indirect source controls, transportation control measures, and the use of cleaner burning alternative fuels, the state board shall, prior to amending the plan, convene a committee comprised of two members each of the state board, the Executive Committee of the Southern California Association of Governments, and the south coast district board appointed by the entity they represent to attempt to resolve the differences. If it is necessary to amend the plan, the state board shall do so at a public hearing held pursuant to Section 41652 and shall submit to the Environmental Protection Agency the portions of the plan required by the Clean Air Act within 120 days after receipt of the plan from the south coast district. In submitting the plan to the Environmental Protection Agency, the state board shall indicate what changes have been made to the plan.

SEC. 16. Section 40482 of the Health and Safety Code is amended to read:

40482. The south coast district board may delegate duties to the executive officer as it deems appropriate. The executive officer shall perform and discharge, under the direction and control of the south coast district board, the powers, duties, purposes, functions, and jurisdiction vested in the south coast district board and delegated pursuant to this section.

Any power, duty, purpose, function, or jurisdiction which the south coast district board may lawfully delegate is conclusively presumed to have been delegated to the executive officer unless it is shown that the south coast district board, by affirmative vote recorded in its minutes, specifically has reserved the particular power, duty, purpose, function, or jurisdiction for its own action.

SEC. 17. Section 40501.2 is added to the Health and Safety Code, to read:

40501.2. (a) The south coast district board shall provide, by rule or regulation, for appeals to the hearing board of decisions on the issuance or renewal of permits. An appeal may be brought by the applicant, permittee, or any other person under conditions and prerequisites specified in the rule.

(b) This section shall remain in effect only until the date that Assembly Bill 2595 of the 1987–88 Regular Session of the Legislature, if enacted, becomes operative and provides for appeals by any person concerning the issuance of permits by the south coast district, and on that date is repealed.

SEC. 18. Section 40504 of the Health and Safety Code is amended to read:

40504. The south coast district shall work with those persons granted variances to reduce emissions of air contaminants from their operations.

SEC. 19. Section 40506 of the Health and Safety Code is amended to read:

40506. (a) In accordance with the purposes of this chapter as set forth in Section 40402, the south coast district board shall adopt rules and regulations for the issuance by the south coast district board of permits authorizing the construction, alteration, replacement, operation, or use of any article, machine, equipment, or other contrivance for which a permit may be required by the south coast district board.

(b) The rules and regulations shall include a schedule of fees for the filing of applications for permits and for the modification, revocation, extension, or annual renewal of permits. All applicants, including, notwithstanding Section 6103 of the Government Code, an applicant that is a publicly owned public utility, shall pay the fees required by the rules and regulations.

SEC. 20. Section 40509 of the Health and Safety Code is amended to read:

40509. Any person may petition the south coast district board to hold a public hearing on any application to issue or renew a permit.

SEC. 21. The South Coast Air Quality Management District shall prepare and submit to the Legislature and the State Air Resources Board, on or before September 1, 1988, a draft of rules and regulations for a system of emissions charges as an economic incentive system for reducing emissions and improving air quality in the South Coast Air Basin. This section does not authorize the adoption of any rules or regulations. The rules and regulations shall include, but not be limited to, all of the following:

(a) Reasonable assurances that significant air quality benefits will be achieved.

(b) A reasonable period of time for those benefits to be realized.

(c) The reduction or control of emissions from all sources coming under the district's jurisdiction through the equitable application of

the requirements of the rules and regulations.

(d) A reasonable relationship of the economic costs of the program to the benefits realized.

SEC. 22. Section 14 of this bill incorporates amendments to Section 40462 of the Health and Safety Code proposed by both this bill and AB 222. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1988, (2) each bill amends Section 40462 of the Health and Safety Code, and (3) this bill is enacted after AB 222, in which case Section 13 of this bill shall not become operative.

SEC. 23. 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 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 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 1302

An act to amend Sections 25315, 25358.3, 25359, and 25363 of, and to add Sections 25323.5 and 25359.7 to, the Health and Safety Code, relating to hazardous substances.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987.]

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

SECTION 1. Section 25315 of the Health and Safety Code is amended to read:

25315. "Federal act" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601, et seq.).

SEC. 2. Section 25323.5 is added to the Health and Safety Code, to read:

25323.5. (a) "Responsible party" or "liable person," for the purposes of this chapter, means those persons described in Section 107(a) of the federal act (42 U.S.C. Sec. 9607(a)).

(b) For the purposes of this chapter, the defenses available to a responsible party or liable person shall be those defenses specified in Sections 101(35) and 107(b) of the federal act (42 U.S.C. Secs. 9601(35) and 9607(b)).

SEC. 3. Section 25358.3 of the Health and Safety Code is amended to read:

25358.3. (a) Whenever the director determines that there may

be an imminent or substantial endangerment to the public health or welfare or to the environment, because of a release or a threatened release of a hazardous substance, the director may do any or all of the following:

(1) Order any responsible party or parties to take appropriate removal or remedial action necessary to protect the public health and safety and the environment. No order under this section shall be made to an owner of real property solely on the basis of that ownership as specified in Sections 101(35) and 107(b) of the federal act (42 U.S.C. Secs. 9601(35) and 9607(b)).

(2) Take or contract for any necessary removal or remedial action.

(3) Request the Attorney General to secure relief that may be necessary to abate the danger or threat. The superior court of the county in which the threat or danger occurs shall have jurisdiction to grant the relief which the public interest and equities of the case may require.

(b) When the director determines that a release of a hazardous substance has occurred or is about to occur, the director may do any or all of the following:

(1) Undertake those investigations, monitoring, surveys, testing, and other information gathering necessary to identify the existence, source, nature, and extent of the hazardous substances involved and the extent of danger to the public health or environment.

(2) Undertake those planning, legal, fiscal, economic, engineering, architectural, and other studies or investigations which are necessary or appropriate to plan and direct response actions, to recover the cost of those actions, and to enforce this chapter.

(c) Whenever there is a release or threatened release of a hazardous substance into the environment, the director may take or contract for any necessary removal or remedial action and may take or contract for any actions authorized by subdivision (b), in compliance with the provisions of this chapter, including, but not limited to, subdivision (b) of Section 25355.

(d) Any person bidding for a contract specified in subdivision (c) shall submit a disclosure statement, as specified by Section 25112.5, except for a federal, state, or local agency. The director may prohibit a person from bidding on such a contract if the director makes any of the following determinations:

(1) The director determines, in writing, that the bidder, or, if the bidder is a business entity, any trustee, officer, director, partner, or any person holding more than 5 percent of the equity in or debt liability of that business entity, has engaged in activities resulting in any federal or state conviction which are significantly related to the fitness of the bidder to perform the bidder's duties or activities under the contract. For purposes of this paragraph, "conviction" means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the department may take pursuant to this subdivision relating to the department's refusal to permit a person to bid on the contract may be based upon a conviction for

which any of the following has occurred:

(A) The time for appeal has elapsed.

(B) The judgment of conviction has been affirmed on appeal.

(C) Any order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Section 1203.4 of the Penal Code permitting that person to withdraw the plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(2) The director determines, in writing, that the bidder, or, if the bidder is a business entity, any trustee, officer, director, partner, or any person holding more than 5 percent of the equity in or debt liability of that business entity, has violated or failed to comply with this chapter or Chapter 6.5 (commencing with Section 25100) or Chapter 6.7 (commencing with Section 25280) of this division, the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code), the Resource Conservation and Recovery Act of 1976, as amended, (42 U.S.C. Sec. 6901 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sec. 1801 et seq.), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.), the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.), or any other equivalent federal or state statute or any requirement or regulation adopted pursuant thereto relating to the generation, transportation, treatment, storage, recycling, disposal, or handling of a hazardous waste, as defined in Section 25117, a hazardous substance, as defined in Section 25316, or a hazardous material, as defined in Section 353 of the Vehicle Code, if the violation or failure to comply shows a repeating or recurring pattern or may pose a threat to public health or safety or the environment.

(3) The director determines, in writing, that the bidder has had a license, permit, or registration for the generation, transportation, treatment, storage, recycling, disposal, or handling of hazardous waste or hazardous substances revoked or suspended.

SEC. 4. Section 25359 of the Health and Safety Code is amended to read:

25359. (a) Any person who is liable for a release, or threat of a release, of hazardous substances and who fails, without sufficient cause, as determined by the court, to properly provide removal or remedial action upon order of the director or the court, pursuant to Section 25358.3, is liable to the department for punitive damages up to three times the amount of any costs incurred by the state account pursuant to this chapter as a result of the failure to take proper action.

(b) No punitive damages shall be imposed under this section against an owner of real property who did not generate, treat, transport, store, or dispose of any hazardous substance on, in, or at the facility located on that real property, as specified in Sections

101(35) and 107(b) of the federal act (42 U.S.C. Secs. 9601(35) and 9607(b)).

SEC. 5. Section 25363 of the Health and Safety Code is amended to read:

25363. (a) Any party found liable for any costs or expenditures recoverable under this chapter who establishes by a preponderance of the evidence that only a portion of those costs or expenditures are attributable to that party's actions, shall be required to pay only for that portion.

(b) If the trier of fact finds the evidence insufficient to establish each party's portion of costs or expenditures under subdivision (a), the court shall apportion those costs or expenditures, to the extent practicable, according to equitable principles, among the defendants.

(c) The state account shall pay any portion of the judgment in excess of the aggregate amount of costs or expenditures apportioned under subdivisions (a) and (b).

(d) The standard of liability for any costs or expenses recoverable pursuant to this chapter is strict liability.

(e) Except as provided in subdivision (d) of Section 25356.6, any person found liable under this chapter who did not generate, treat, transport, store, or dispose of a hazardous substance may seek indemnity or contribution for any costs or expenditures incurred by that person under this chapter from any person found liable for the release or threatened release of a hazardous substance for which those costs or expenditures were incurred.

SEC. 6. Section 25359.7 is added to the Health and Safety Code, to read:

25359.7. (a) Any owner of nonresidential real property who knows, or has reasonable cause to believe, that any release of hazardous substance has come to be located on or beneath that real property shall, prior to the sale of the real property, give written notice of that condition to each buyer of the real property. Failure of the owner to provide written notice when required by this subdivision to each buyer shall subject the owner to actual damages and any other remedies provided by law. In addition, where the owner has actual knowledge of the presence of any hazardous substance and knowingly and willfully fails to provide written notice to the buyer, the owner is liable for a civil penalty not to exceed five thousand dollars ($5,000) for each separate violation.

(b) Any lessee or renter of real property who knows, or has reasonable cause to believe, that any hazardous substance has come to be located on or beneath that real property shall, upon discovery by the lessee or renter of the presence or suspected presence of the hazardous substance, give written notice of that condition to the owner of the real property.

(1) Failure of the lessee or renter to provide written notice when required by this subdivision to the owner shall make the leasehold or rental agreement voidable at the discretion of the owner, except

that this paragraph shall not apply to lessees and renters of property used exclusively for residential purposes.

(2) If the lessee or renter has actual knowledge of the presence of any hazardous substance and knowingly and willfully fails to provide written notice when required by this subdivision to the owner, the lessee or renter is liable for a civil penalty not to exceed five thousand dollars ($5,000) for each separate violation.

CHAPTER 1303

An act to amend Sections 1306, 4750, 4753, and 4755 of, to add Section 827.1 to, to repeal Section 4700.2 of, and to add Chapter 2.5 (commencing with Section 4325) to Title 4 of Part 3 of, the Penal Code, relating to penal law, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 827.1 is added to the Penal Code, to read:

827.1. A person who is specified or designated in a warrant of arrest for a misdemeanor offense may be released upon the issuance of a citation, in lieu of physical arrest, unless one of the following conditions exists:

(a) The misdemeanor cited in the warrant involves violence.

(b) The misdemeanor cited in the warrant involves a firearm.

(c) The misdemeanor cited in the warrant involves resisting arrest.

(d) The misdemeanor cited in the warrant involves giving false information to a peace officer.

(e) The person arrested is a danger to himself or herself or others due to intoxication or being under the influence of drugs or narcotics.

(f) The person requires medical examination or medical care or was otherwise unable to care for his or her own safety.

(g) The person has other ineligible charges pending against him or her, including outstanding charges of failure to appear.

(h) There is reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be immediately endangered by the release of the person.

(i) The person refuses to sign the notice to appear.

(j) The person cannot provide satisfactory evidence of personal identification.

(k) The warrant of arrest indicates that the person is not eligible to be released on a citation.

The issuance of a citation under this section shall be undertaken in the manner set forth in Sections 853.6 to 853.8, inclusive.

SEC. 2. Section 1306 of the Penal Code is amended to read:

1306. (a) When any bond is forfeited and the period of time specified in Section 1305 has elapsed without the forfeiture having been set aside, the court which has declared the forfeiture, regardless of the amount of the bail, shall enter a summary judgment against each bondsman named in the bond in the amount for which the bondsman is bound. In no event shall the judgment exceed the amount of the bond, with costs, and notwithstanding any other provision of law, no penalty assessments shall be levied or added to the judgment.

(b) If, because of the failure of any court to promptly perform the duties enjoined upon it pursuant to this section, summary judgment is not entered within 90 days after the date upon which it may first be entered, the right to do so expires and the bail is exonerated.

(c) A dismissal of the complaint, indictment or information after the default of the defendant shall not release or affect the obligation of the bail bond or undertaking.

(d) The district attorney or civil legal adviser of the board of supervisors shall:

(1) Demand immediate payment of the judgment within 30 days after the summary judgment becomes final.

(2) If the judgment remains unpaid for a period of 20 days after demand has been made, shall forthwith enforce the judgment in the manner provided for enforcement of money judgments generally. If the judgment is appealed by the surety or bondsman, the undertaking required to be given in such cases shall be provided by a surety other than the one filing the appeal. The undertaking shall comply with the enforcement requirements of Section 917.1 of the Code of Civil Procedure.

(e) The right to enforce a summary judgment entered against a bondsman pursuant to this section shall expire two years after the entry of the judgment.

SEC. 3. Chapter 2.5 (commencing with Section 4325) is added to Title 4 of Part 3 of the Penal Code, to read:

CHAPTER 2.5. PILOT JAIL INDUSTRY PROGRAMS

4325. The board of supervisors of a county of the ninth class or the 19th class, as described in Sections 28030 and 28040, respectively, of the Government Code, or both county boards, with the concurrence of the sheriff of the county, may establish by ordinance or resolution, a Jail Industry Commission for that county, which commission shall have the same purposes, powers, and duties with respect to the county jail as the Prison Industry Authority has under Article 1 (commencing with Section 2800) of Chapter 6 of Title 1 with respect to institutions under the jurisdiction of the Department of Corrections. As used in this chapter, "commission" means a Jail Industry Commission.

4326. The commission shall be composed of nine members, four

of whom shall be appointed by, and serve at the pleasure of, the board of supervisors, and three of whom shall be appointed by, and serve at the pleasure of, the sheriff. The chairperson of the board of supervisors or his or her designee shall also be a member. The sheriff shall be ex officio chairperson of the commission.

The board of supervisors shall provide for the compensation of members of the commission, and shall provide for the meetings, support staff, and general operations of the commission.

4327. Upon the establishment of the commission, the board of supervisors shall establish a Jail Industries Fund, which may be a revolving fund, for funding the operations of the commission. All jail industry income shall be deposited in, and any prisoner compensation shall be paid to the account of the prisoner from, the Jail Industries Fund.

4328. Funds in a Jail Industries Fund may only be used for the operation or expansion of the jail industry program or to cover operating and construction costs of county detention facilities, and may not be transferred to the county general fund.

4329. No commission established pursuant to Section 4325 or any county jail industry program conducted under the authority of a commission, shall remain in existence for more than two years from the date of its establishment.

SEC. 4. Section 4700.2 of the Penal Code is repealed.

SEC. 5. Section 4750 of the Penal Code is amended to read:

4750. A city or county shall be entitled to reimbursement for reasonable and necessary costs connected with state prisons or prisoners in connection with any of the following:

(a) Any crime committed at a state prison, whether by a prisoner, employee, or other person.

With respect to a prisoner, "crime committed at a state prison" as used in this subdivision, includes, but is not limited to, crimes committed by the prisoner while detained in local facilities as a result of a transfer pursuant to Section 2910 or 6253, or in conjunction with any hearing, proceeding, or other activity for which reimbursement is otherwise provided by this section.

(b) Any crime committed by a prisoner in furtherance of an escape. Any crime committed by an escaped prisoner within 10 days after the escape and within 100 miles of the facility from which the escape occurred shall be presumed to have been a crime committed in furtherance of an escape.

(c) Any hearing on any return of a writ of habeas corpus prosecuted by or on behalf of a prisoner.

(d) Any trial or hearing on the question of the sanity of a prisoner.

(e) Any costs not otherwise reimbursable under Section 1557 or any other related provision in connection with any extradition proceeding for any prisoner released to hold.

(f) Any costs incurred by a coroner in connection with the death of a prisoner.

(g) Any costs incurred in transporting a prisoner within the host

county or as requested by the prison facility or incurred for increased security while a prisoner is outside a state prison.

SEC. 6. Section 4753 of the Penal Code is amended to read:

4753. A city or county shall designate an officer or agency to prepare a statement of costs that shall be reimbursed under this chapter.

The statement shall be sent to the Controller for approval. The Controller shall reimburse the city or county within 60 days after receipt of the statement or provide a written statement as to the reason for not making reimbursement at that time. If sufficient funds are not available, the Controller shall request the Director of Finance to include any amounts necessary to satisfy the claims in a request for a deficiency appropriation.

SEC. 7. Section 4755 of the Penal Code is amended to read:

4755. Whenever a person has entered upon a term of imprisonment in a penal or correctional institution, and whenever during the continuance of the term of imprisonment there is a detainer lodged against the prisoner by a law enforcement or prosecutorial agency of the state or its subdivisions, the Department of Corrections may do either of the following:

(a) Release the inmate to the agency lodging the detainer, within five days, or five court days if the law enforcement agency lodging the detainer is more than 400 miles from the county in which the institution is located, prior to the scheduled release date provided the inmate is kept in custody until the scheduled release date.

(b) Retain the inmate in custody up to five days, or five court days if the law enforcement agency lodging the detainer is more than 400 miles from the county in which the institution is located, after the scheduled release date to facilitate pickup by the agency lodging the detainer.

If a person has been retained in custody under this subdivision in response to the issuance of a warrant of arrest charging a particular offense and the defendant is released from custody following the retention period without pickup by the agency lodging the detainer, a subsequent court order shall be issued before the arrest of that person for the same offense which was charged in the prior warrant.

As used in this section "detainer" means a warrant of arrest.

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:

County jail facilities are operating far above capacity with an ever increasing jail population. In order to facilitate the safe operation of these facilities, as provided in this act, at the earliest possible time, it is essential that this act take effect immediately.

CHAPTER 1304

An act to amend Section 1255 of, and to add and repeal Part 1.87 (commencing with Section 444.30) of Division 1 of, the Health and Safety Code, relating to health.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987]

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

SECTION 1. Part 1.87 (commencing with Section 444.30) is added to Division 1 of the Health and Safety Code, to read:

PART 1.87. MOBILE HEART CATHETERIZATION LABORATORIES PILOT PROJECT

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

(a) Currently cardiac catheterization diagnostic procedures are performed almost exclusively in a general acute care hospital setting, and generally on an inpatient basis. The procedure is relatively costly, as are many of the inpatient diagnostic procedures that rely heavily on expensive high technology.

(b) Recent advances in technology indicate the feasibility of performing high quality, safe diagnostic cardiac catheterization procedures in mobile heart catheterization laboratories. This could lower the cost of care for the diagnostic procedure, as well as obviate the need in many instances for an expensive hospital stay. Additionally, it could obviate the need for small rural hospitals to incur the expense of installing their own laboratories.

(c) Prior to providing permanent legal authority to permit diagnostic cardiac catheterization to be performed in mobile heart catheterization laboratories, it is the intent of the Legislature that diagnostic cardiac catheterization provided in a mobile setting be evaluated on a pilot project basis and demonstrated to be a safe, high quality, cost-effective diagnostic modality.

(d) It is further the intent of the Legislature that a pilot program be authorized under the supervision of the Office of Statewide Health Planning and Development, and that the office report back to the Legislature its findings and recommendations on the pilot program.

444.31. Unless otherwise indicated, as used in this part, the following terms shall be defined as follows:

(a) "Diagnostic cardiac catheterizations in mobile heart catheterization laboratories" means the performance of coronary angiography or diagnostic cardiac catheterization, or both, in a laboratory separated from a general acute care hospital. For the purpose of this part, at least one pilot shall include the use of state-of-the-art digital electronic computer technology with

simultaneous multiplane dynamic imaging capabilities and 1024x1024 resolution and 512x512 at 30 FPS or comparable technology.

(b) "Mobile heart catheterization laboratory" means a laboratory which has been installed on a mobile van, where outpatient cardiac catheterization procedures may be performed pursuant to this part. Each van shall be owned and or leased, and operated, by a general acute care hospital, which has an approved cardiac surgical program.

(c) "Office" means the Office of Statewide Health Planning and Development.

(d) "State department" means the State Department of Health Services.

(e) "Pediatric cardiac surgery service" means a program of a general acute care hospital which has the capability of performing cardiac catheterization and cardiac surgery for the diagnosis and treatment of congenital defects in children. Cardiac catheterization for pediatric patients shall be performed only in a general acute care hospital that has the capability to perform cardiac surgery on pediatric patients and shall not be performed in mobile heart catheterization laboratories, designated pursuant to this part. For purposes of this section, "pediatric patient" means a patient who, as of the date of the medical procedure, has not reached his or her 18th birthday.

444.32. (a) The office shall establish and administer a pilot program to test the safety and cost effectiveness of performing cardiac catheterization in mobile heart catheterization laboratories. The office may approve up to three mobile heart catheterization laboratories for inclusion under the pilot program.

(b) The office shall only authorize pilot projects provided for pursuant to subdivision (a) to provide heart catheterization services in health systems areas number one, two, and three, excluding those health facilities planning areas of Sacramento County, as identified in the 1987 update of the State Health Facilities and Services Plan, as published by the office, and that portion of Placer County that is located in health facility planning area 309.

(c) The office shall not approve any pilot project application submitted by, or on behalf of, any health facility which is located in health facility planning area 209 and is licensed to provide cardiac catheterization services.

(d) Notwithstanding subdivisions (a) to (c), inclusive, the office may approve the use of mobile cardiac catheterization laboratories by a general acute care hospital licensed to provide cardiac care services during that period of time when the fixed laboratory site is not in use due to remodeling, replacement, or upgrading.

(e) The office shall establish procedures, requirements, and protocols regarding the movement or placement of mobile cardiac catheterization laboratories and shall inspect and approve each location site after movement of the laboratory before permitting the laboratory to provide services as authorized under this part. Each

general acute care hospital which owns, or leases and operates a mobile heart catheterization laboratory shall notify the office of any movement or change of location of the laboratory.

444.33. (a) Persons who wish to establish mobile heart catheterization laboratories shall make application to the office for inclusion in the pilot program on forms provided by the office. Applicants shall submit a separate application for each proposed pilot, and nothing in this section shall preclude one general acute care hospital from having more than one pilot mobile heart catheterization laboratory.

The forms shall require the information determined to be needed by the office.

(b) At a minimum, the forms shall require all of the following:

(1) The effective date for initiating pilot project services.

(2) The general service area.

(3) A description of the population to be served.

(4) A detailed description of the services to be provided.

(5) A description of backup emergency services.

(6) The availability of comprehensive care.

(7) The qualifications of the general acute care hospital providing the emergency treatment.

(8) Curricula vitae for the laboratory directors and key staff.

(9) Internal quality assurance criteria and procedures.

444.34. Mobile heart catheterization laboratories shall only provide services at general acute care hospital settings. Specific requirements for proximity to the general acute care hospital, and corridors linking the mobile heart catheterization laboratories to the hospital, shall be the responsibility of the office. For the purposes of this part, these mobile heart catheterization laboratories are exempt from all current space requirements pertaining to heart catheterization laboratories.

444.35. Each mobile heart catheterization laboratory shall be under the direction of a physician and surgeon who is board-eligible or board-certified in cardiovascular disease or diagnostic radiology with demonstrated expertise in performing cardiac catheterization. All physicians and surgeons performing cardiac catheterization in mobile heart catheterization laboratories shall be board-eligible or board-certified by the American Board of Internal Medicine, with specialty certification in cardiovascular disease, or board-eligible or board-certified by the American Board of Radiology, with specialty certification in diagnostic radiology and demonstrated expertise in performing cardiac catheterization.

Each physician and surgeon shall also be a member of the medical staff of the general acute care hospital owning or leasing the mobile laboratory, and medical staff of the general acute care hospital at which the procedures are performed.

Other desirable qualifications for physicians and surgeons directing a mobile heart catheterization laboratory include membership in the Society for Cardiac Angiography, the American

College of Cardiology, or similar equivalent expertise. The office shall determine whether or not an applicant's qualifications meet the requirements of this section. The office may approve equivalent qualifications in consultation with the technical advisory committee, established pursuant to Section 444.39.

444.36. (a) The office, with the advice of the committee, shall review and approve each general acute care hospital as a location at which a mobile heart catheterization laboratory will provide services. The office may approve the use of mobile heart catheterization laboratories at general acute care hospitals which meet the requirements of Section 1255 which are eligible to receive a special permit to have a cardiac catheterization laboratory located in that general acute care hospital. The office may withhold approval of a general acute care hospital meeting such criteria if it finds that any of the criteria as provided in subdivision (b) are not being met and that patient safety may be compromised.

(b) In addition to hospitals that may be approved pursuant to subdivision (a), the office may, with the advice of the committee and upon adoption of regulations, approve general acute care hospitals not meeting the requirements of Section 1255 as sites where services, as approved, may be provided by a mobile heart catheterization laboratory if it is determined that patient safety is not compromised. The office in the review and approval of each general acute care hospital shall consider, but not be limited to, the following criteria: the provision of backup emergency services, the availability of comprehensive care, the specific qualifications of the general acute care hospital, the quality and availability of physicians and other required health care personnel that may be required in an emergency situation, procedures necessary for the stabilization of patients in emergency situations, and specific patient transfer arrangements in emergency situations. The office may deny or limit the use of a mobile heart catheterization laboratory at any general acute care hospital if it determines that the provision of services in such laboratory might compromise patient safety or is not in the best interests of the pilot program.

444.37. As a condition of participation in the pilot program, each applicant shall agree to provide the statistical data and patient information that the office deems necessary for effective evaluation, at such times as the office requires. It is the intent of the Legislature that the office shall develop procedures to assure the confidentiality of patient information, and shall only disclose patient information, including names, as is necessary pursuant to this part or any other law.

444.38. The office may suspend or withdraw approval of pilot projects with notice but without hearing if the office determines that patient safety is or may be jeopardized. A pilot project shall have the right to appeal a suspension to the director of the office, but shall not resume performing mobile cardiac catheterization services pending a favorable outcome of the appeal.

The office may suspend or withdraw approval of pilot projects for reasons other than patient safety, including any violations of the agreement to participate in the pilot program, but in those instances, the office shall give notice to the pilot project director and afford an opportunity to be heard.

444.39. (a) The office shall appoint a technical advisory committee to advise the office on the administration of this part. The technical advisory committee shall include, but not be limited to, a representative of the state department and at least four physicians and surgeons who have specialized training and experience in the field of cardiovascular disease or diagnostic radiology, with training in cardiovascular disease. These physicians and surgeons shall have affiliation with major teaching institutions.

(b) A member of the technical advisory committee shall not be an officer of or a director of any mobile cardiac catheterization laboratory or have any significant beneficial or ownership interest in any mobile cardiac catheterization laboratory designated pursuant to this part. The office shall not consider the application of the hospital wishing to establish a mobile cardiac catheterization laboratory if a member of the technical advisory committee will be the laboratory director or be on the staff of or be an officer of or director of or have a beneficial or ownership interest in the proposed mobile cardiac catheterization laboratory.

(c) Members of the technical advisory committee shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the committee.

(d) Duties of the committee shall include, but not be limited to, advising the office on standards and criteria for approving pilot projects, advising the office on the implementation and ongoing monitoring of the pilot program, and advising the office on the evaluation of the results of the pilot program.

(e) The office shall submit a report to the Legislature on the progress of the pilot program on or before July 1, 1990. The report shall include a recommendation as to whether mobile cardiac catheterization should be continued, and if so, under what conditions. The report shall include a comparison of procedures in mobile cardiac catheterization laboratories with those performed in general acute care hospitals.

444.40. (a) The office shall establish, at a minimum, spatial, staffing, and equipment requirements for laboratories participating in the pilot program.

(b) Each mobile cardiac catheterization laboratory shall assure the office that patients examined by this program have given written informed consent.

(c) All mobile vans constructed for use in these pilot projects shall be of a size in overall width and length measurement that does not require a permit for them to be moved on the streets and highways, and shall be registered and titled for unrestricted movement on the streets and highways by the Department of Motor Vehicles pursuant

to the authority granted by the Vehicle Code.

444.41. (a) Protocols for the performance of mobile cardiac catheterization procedures on an outpatient basis shall be established by the office. The protocols shall include, but not be limited to, both of the following:

(1) Criteria for the selection of patients or exclusion of patients from the performance of mobile cardiac catheterization, equipment, and procedures necessary for the stabilization of patients in emergency situations prior to transfer.

(2) Criteria for patient transfer arrangements in emergency situations, which shall be in accordance with the standards established by the Emergency Medical Services Authority.

(b) Except as otherwise provided in this part, no health facility or clinic licensing or certification requirements shall be required for the performance of mobile cardiac catheterization. The office may consult with the state department as necessary. The office may contract for specialized medical consultation, or other personnel or other services as necessary for the effective implementation of this part.

(c) Regulations adopted by the office to implement this part shall be adopted as emergency regulations in accordance with Section 11346.1 of the Government Code, except that the regulations shall be exempt from the requirements of subdivisions (e), (f), and (g) of that section. The regulations shall be deemed to be an emergency for the purposes of Section 11346.1 of the Government Code and shall remain in effect until January 1, 1989, unless amended or repealed by the office.

444.42. The office may charge participants in the pilot program a reasonable fee which will fully cover the cost of administering this part.

444.43. This part 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 1255 of the Health and Safety Code is amended to read:

1255. In addition to the basic services offered under the license, a general acute care hospital may be approved in accordance with subdivision (c) of Section 1277 to offer special services including, but not limited to, the following:

(a) Radiation therapy department.
(b) Burn center.
(c) Emergency center.
(d) Hemodialysis center (or unit).
(e) Psychiatric.
(f) Intensive-care newborn nursery.
(g) Cardiac surgery.
(h) Cardiac catheterization laboratory.
(i) Renal transplant.
(j) Such other special services as the department may prescribe

by regulation.

A general acute care hospital which exclusively provides acute medical rehabilitation center services may be approved in accordance with subdivision (b) of Section 1277 to offer special services not requiring surgical facilities.

The state department shall adopt standards for special services and such other regulations as may be necessary to implement this section. For cardiac catheterization laboratory service, the state department shall, at a minimum, adopt standards and regulations which specify that only diagnostic services, and which diagnostic services, may be offered by an acute care hospital or a multispecialty clinic as defined in subdivision (*l*) of Section 1206 which is approved to provide cardiac catheterization laboratory service but is not also approved to provide cardiac surgery service, together with the conditions under which such cardiac catheterization laboratory service may be offered.

A cardiac catheterization laboratory service shall be located in a general acute care hospital which is either licensed to perform cardiovascular procedures requiring extracorporeal coronary artery bypass, which meets all of the applicable licensing requirements relating to staff, equipment, and space for service; or shall, at a minimum, have a licensed intensive care service, coronary care service and maintain a written agreement for the transfer of patients to a general acute care hospital which is licensed for cardiac surgery or shall be located in a multispecialty clinic as defined in subdivision (*l*) of Section 1206. The transfer agreement shall include protocols which will minimize the need for duplicative cardiac catheterizations at the hospital in which the cardiac surgery is to be performed.

For purposes of this section, multispecialty clinic as defined in subdivision (*l*) of Section 1206 includes an entity in which the multispecialty clinic holds at least a 50 percent general partner interest and maintains responsibility for the management of the service, if all of the following requirements are met:

(1) The multispecialty clinic existed as of March 1, 1983.

(2) Prior to March 1, 1985, the multispecialty clinic did not offer cardiac catheterization services, dynamic multiplane imaging, or other types of coronary or similar angiography.

(3) The multispecialty clinic creates only one entity that operates its service at one site.

(4) These entities shall have the equipment and procedures necessary for the stabilization of patients in emergency situations prior to transfer and patient transfer arrangements in emergency situations which shall be in accordance with the standards established by the Emergency Medical Services Authority including the availability of comprehensive care and the qualifications of any general acute care hospital expected to provide emergency treatment.

Except as provided in Part 1.85 (commencing with Section 444)

and Part 1.87 (commencing with Section 444.30) of Division 1, under no circumstances shall cardiac catheterizations be performed outside of a general acute care hospital or a multispecialty clinic, as defined in subdivision (*l*) of Section 1206, which qualifies for this definition as of March 1, 1983.

CHAPTER 1305

An act to amend Section 51283 of the Government Code, relating to land conservation contracts.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987]

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 current fair market 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. The Legislature is aware of the Attorney General's Opinion No. 85-1002, dated April 22, 1986, which concludes that the term "full cash value," as used in Section 51283 of the Government Code, does not have the same meaning as the definition set forth in Section 110.1 of the Revenue and Taxation Code. In enacting Section 1 of this act, it is the intent of the Legislature to concur in that interpretation by clarifying that term.

In order to avoid confusion in the implementation of Section 51283 of the Government Code, the Legislature recognizes that local governments will continue to use local interpretations of the cancellation fee formula in carrying out the provisions of that section prior to the effective date of Section 1 of this act, including those local interpretations which are in accord with the Attorney General's opinion cited in this section. Therefore, it is the intent of the Legislature that Section 1 of this act shall be applied only to those cancellation proceedings with respect to which the cancellation fee has not been paid by the landowner prior to the effective date of Section 1. Accordingly, no additional assessment of any cancellation

fee shall be levied and no refund of any portion of any cancellation fee collected shall be made in connection with any cancellation fee which was paid prior to the effective date of this act because of any increase or decrease in any cancellation fee resulting from the enactment of Section 1 of this act.

CHAPTER 1306

An act to add Article 14 (commencing with Section 28090) to Chapter 5 of Division 12 of the Vehicle Code, relating to motor vehicles.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987]

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

SECTION 1. Article 14 (commencing with Section 28090) is added to Chapter 5 of Division 12 of the Vehicle Code, to read:

Article 14. Cellular Telephones

28090. Every renter of a motor vehicle with cellular radio telephone equipment shall provide the person who rents the motor vehicle with written operating instructions concerning the safe use of the equipment. The equipment shall also be clearly labeled with operating instructions concerning the safe use of the equipment.

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 1307

An act to add Article 14 (commencing with Section 69795) to Chapter 2 of Part 42 of the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987]

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

SECTION 1. (a) The Legislature finds and declares as follows:

(1) There is an acute shortage of physicians and surgeons, dentists,

and registered nurses who practice their professions in many of the inner city and rural communities of the state. Most of these underserved areas are predominantly inhabited by Blacks, Hispanics/Latinos, and Native American Indians. Of the few physicians and surgeons, dentists, and registered nurses who are practicing in these areas, many are themselves Black, Hispanic/Latino, or Native American Indian and provide health services augmented with cultural and linguistic understanding that increases the effectiveness of their services.

(2) An effective strategy of increasing the number of physicians and surgeons, dentists, and registered nurses practicing in medically underserved areas in California is to increase the participation of Black, Hispanic/Latino, and Native American Indian students in schools of medicine, osteopathy, dentistry, and nursing, and in family practice residency training programs.

(3) Data from the United States Census show that Blacks account for 3.4 percent of the state's physicians and surgeons, 2.2 percent of the dentists, and 6.8 percent of the registered nurses. Hispanics/Latinos represent 3.6 percent of the physicians and surgeons, 3.7 percent of the dentists, and 5.5 percent of the registered nurses in the state. Native American Indians make up 0.1 percent of the physicians and surgeons, 0.3 percent of the dentists, and 0.6 percent of the registered nurses in California. The representation of these ethnic groups in the health professions compares very disfavorably with their proportion in the state's population. According to the census, the California population consists of 7.2 percent Blacks, 19.2 percent Hispanics/Latinos, and 0.8 percent Native American Indians.

(4) By increasing the enrollment of Blacks, Hispanics/Latinos, and Native American Indians and other underrepresented persons in schools of medicine, osteopathy, dentistry, and nursing, and in family practice residency training programs the health and welfare of the residents of medically underserved areas in California can be improved.

(5) The responsibility for increasing the participation of Blacks, Hispanics/Latinos, and Native American Indians in the health professions and improving the health and welfare of residents of medically underserved areas lies with the state, private sector institutions, and health science education programs. The state has a responsibility to assure reasonable access to health care to all of its citizens. Private businesses and industry benefit from a healthy and productive work force which reflects the diversity of the state and from improvements made in medically underserved communities. Health science education programs have a responsibility to assure equal opportunity to potential applicants who meet the academic qualifications for training in the health professions. These responsibilities can be furthered through a partnership between the state and the private sector.

(b) In enacting Article 14 (commencing with Section 69795) of

Chapter 2 of Part 42 of the Education Code, it is the intent of the Legislature to do the following:

(1) Through creation of the Minority Health Professions Education Foundation, provide for the solicitation of funds from business, industry, foundations, and other sources to be used to increase the participation of Blacks, Hispanics/Latinos, Native American Indians, and other underrepresented persons in the medical, dental, nursing, and other health professions, and to promote the practice of these professions in the areas of the state determined to be deficient in primary care services.

(2) Increase the participation of Blacks, Hispanics/Latinos, Native American Indians, and other underrepresented persons in the specialty of family practice.

(3) Dedicate funds made available under Article 14 (commencing with Section 69795) of Chapter 2 of Part 42 of the Education Code to promote the practice of minority physicians and surgeons, dentists, nurses, and other health professionals in designated areas of the state with a deficiency of primary care services.

(4) Accomplish the purposes of Article 14 (commencing with Section 69795) of Chapter 2 of Part 42 of the Education Code without appropriation from the General Fund.

(5) Authorize the use of funds that have accumulated in the Health Facility Construction Loan Insurance Fund to initiate activities to accomplish the purposes of Article 14 (commencing with Section 69795) of Chapter 2 of Part 42 of the Education Code. The Legislature finds and declares, in this connection, the following:

(A) The fund balance in the Health Facility Construction Loan Insurance Fund is approaching a prudent reserve amount, and surplus funds soon will be available.

(B) The Health Facility Construction Loan Insurance Program was established to provide low-cost loans to health facilities.

(C) Since the program's inception, eligible health facilities have saved millions of dollars.

(D) It would be appropriate if some of the funds that represent considerable savings to health facilities are returned to the people in the form of support for Blacks, Hispanics/Latinos, Native American Indians, and other underrepresented persons in the health care professions.

SEC. 2. Article 14 (commencing with Section 69795) is added to Chapter 2 of Part 42 of the Education Code, to read:

Article 14. Minority Health Professions Education Foundation

69795. As used in this article:

(a) "Board" means the Board of Directors of the Minority Health Professions Education Foundation.

(b) "Commission" means the Health Manpower Policy Commission.

(c) "Director" means the Director of the Office of Statewide

Health Planning and Development.

(d) "Foundation" means the Minority Health Professions Education Foundation.

(e) "Health professions" or "health professionals" means physicians and surgeons licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, dentists, registered nurses, and other health professionals determined by the office to be needed in medically underserved areas.

(f) "Office" means the Office of Statewide Health Planning and Development.

(g) "Underrepresented minority groups" means Blacks, Hispanics/Latinos, Native American Indians, or other persons underrepresented in medicine, dentistry, nursing, or other health professions as determined by the board.

69796. There is hereby established in the state government the Minority Health Professions Education Foundation, with a board of directors consisting of nine members appointed by the Governor, one member appointed by the Speaker of the Assembly, and one member appointed by the Rules Committee of the Senate. The members of the foundation board of directors appointed by the Governor, Speaker of the Assembly and Rules Committee of the Senate may include representatives of minority groups which are underrepresented in the health professions, persons employed as health professionals, and other appropriate members of health or related professions. All persons considered for appointment shall have an interest in health programs, an interest in minority health educational opportunities, and the ability and desire to solicit funds for the purposes of this article as determined by the appointing power.

Members of the board shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the board.

69798. The Minority Health Professions Education Foundation may do any of the following:

(a) Solicit and receive funds from business, industry, foundations, and other private or public sources for the purpose of providing direct financial assistance in the form of scholarships or loans to Black, Hispanic/Latino, Native American Indian students, and other students from underrepresented minority groups. These funds shall be deposited in a Minority Health Professions Education Fund, created pursuant to Section 69800.

(b) Recommend to the director the disbursement of private sector moneys deposited in the Minority Health Professions Education Fund to students from underrepresented minority groups accepted to or enrolled in schools of medicine, dentistry, nursing, or other health professions in the form of loans or scholarships.

(c) Recommend to the director a standard contractual agreement to be signed by the director and any participating student, that

would require a period of obligated professional service in the areas in California designated by the commission as deficient in primary care services. The agreement shall include a clause entitling the state to recover the funds awarded plus the maximum allowable interest for failure to begin or complete the service obligation.

(d) Develop criteria for evaluating the likelihood that applicants for scholarships or loans would remain to practice their profession in designated areas deficient in primary care services.

(e) Develop application forms, which shall be disseminated to students from underrepresented minority groups interested in applying for scholarships or loans.

(f) Encourage private sector institutions, including hospitals, community clinics, and other health agencies to identify and provide educational experiences to students from underrepresented minority groups who are potential applicants to schools of medicine, dentistry, nursing, or other health professions.

(g) Prepare and submit an annual report to the Office of Statewide Health Planning and Development documenting the amount of money solicited from the private sector, the number of scholarships and loans awarded, the enrollment levels of students from underrepresented minority groups in schools of medicine, dentistry, nursing, and other health professions, and the projected need for scholarships and loans in the future.

(h) Recommend to the director that a portion of the funds solicited from the private sector be used for the administrative requirements of the foundation.

69799. The Office of Statewide Health Planning and Development shall do all of the following:

(a) Provide technical and staff support to the foundation in meeting all of its responsibilities.

(b) Provide financial management for the Minority Health Professions Education Fund.

(c) Enter into contractual agreements with students from underrepresented minority groups for the disbursement of scholarships or loans in return for the commitment of these students to practice their profession in an area in California designated as deficient in primary care services.

(d) Disseminate information regarding the areas in the state that are deficient in primary care services to potential applicants for the scholarships or loans.

(e) Monitor the practice locations of the recipients of the scholarships or loans.

(f) Recover funds, in accordance with the terms of the contractual agreements, from recipients of scholarships or loans who fail to begin or complete their obligated service. Funds so recovered shall be redeposited in the Minority Health Professions Education Fund.

(g) Contract with the institutions that train family practice residents, in order to increase the participation of students from underrepresented minority groups in entering the specialty of family

practice. The director may seek the recommendations of the commission or foundation as to which programs best demonstrate the ability to meet this objective.

(h) Contract with training institutions which are involved in osteopathic postgraduate training in general or family practice medicine, in order to increase the participation of students from underrepresented minority groups participating in the practice of osteopathy. The director may seek the recommendations of the commission or foundation as to which programs have demonstrated the ability to meet this objective.

(i) Enter into contractual agreements with graduated health professionals to repay some or all of the debts they incurred in health professional schools in return for practicing their professions in an area in California designated as deficient in primary care services.

(j) Contract with institutions that award baccalaureate of science of nursing degrees in order to increase the participation of students from underrepresented minority groups in the nursing profession. The director may seek the recommendations of the commission as to which programs have demonstrated the ability to meet this objective.

69800. There is hereby created within the Office of Statewide Health Planning and Development a Minority Health Professions Education Fund. The primary purpose of this fund is to provide scholarships and loans to students from underrepresented minority groups who are accepted to or enrolled in schools of medicine, dentistry, nursing, or other health professions. The fund shall also be used to pay for the cost of administering the program and for any other purpose authorized by this article. The level of expenditure by the office for the administrative support of the program created pursuant to this article shall be subject to review and approval annually through the state budget process. The office is authorized to receive private donations to be deposited into this fund. All money in the fund is continuously appropriated to the office for the purposes of this article. The office shall manage this fund prudently in accordance with other provisions of law.

69801. Any regulations the office adopts to implement this article shall be adopted as emergency regulations in accordance with Section 11346.1 of the Government Code, except that the regulations shall be exempt from the requirements of subdivisions (e), (f), and (g) of that section. The regulations shall be deemed to be emergency regulations for the purposes of Section 11346.1 of the Government Code.

69802. Notwithstanding any other provision, meetings of the board need not be open to the public when the board discusses applications for financial assistance under this article, or other matters that the board and the office reasonably determine should not be discussed in public due to privacy considerations.

69803. Notwithstanding any other provision of law, the office may exempt from public disclosure any document in the possession of the

office that pertains to a donation made pursuant to this article if the donor has requested anonymity.

SEC. 3. (a) The sum of one million two hundred thousand dollars ($1,200,000) is hereby appropriated from the Health Facility Construction Loan Insurance Fund, established pursuant to Section 436.26 of the Health and Safety Code, to the Office of Statewide Health Planning and Development, for expenditure without regard to fiscal years, for allocation in accordance with the following schedule:

(1) For contracts with medical center or hospital training institutions which train family practice residents to increase the participation of students from underrepresented minority groups in the specialty of family practice	$650,000
(2) For contracts with medical center or hospital training institutions which train postgraduate osteopathic physicians in general or family medicine, to increase the participation of students from underrepresented minority groups participating in the practice of osteopathy	$350,000
(3) For administrative responsibilities of the Office of Statewide Health Planning and Development and the Minority Health Professions Education Foundation pursuant to Article 14 (commencing with Section 69795) of Chapter 2 of Part 42 of the Education Code.	$200,000

(b) The amount appropriated for contracts to the training institutions pursuant to paragraphs (1) and (2) of subdivision (a) shall not exceed the cost incurred pursuant to Article 14 (commencing with Section 69795) of Chapter 2 of Part 42 of the Education Code and shall not be construed to be a subsidy to the training institutions.

(c) The funds specified in paragraphs (1) and (2) of subdivision (a) shall be available only to residency programs and postgraduate programs that make a demonstrable showing that they are increasing the number of enrolled students from underrepresented minority groups.

(d) The director may use the funds specified in paragraph (3) of subdivision (a) for sole-source contracts for technical and staff services needed by the office and the foundation for the purposes of Article 14 (commencing with Section 69795) of Chapter 2 of Part 42 of the Education Code.

(e) Any portion of funds appropriated pursuant to this section that is unexpended or unencumbered before July 1, 1990, shall revert to the Health Facility Construction Loan Insurance Fund on that date.

CHAPTER 1308

An act to amend, repeal, and add Section 51283 of the Government Code, and to amend Section 677 of, and to add Sections 612.5 and 614 to, the Public Resources Code, relating to resources, and making an appropriation therefor.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987.]

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) The first seven hundred thousand dollars ($700,000) of revenue paid to the Controller pursuant to subdivision (f) in the 1987–88 fiscal year shall be paid to the State Treasury to the credit of the Farmlands Mapping Account in the General Fund, which is continued in existence through June 30, 1988. These funds shall be available upon appropriation to the Department of Conservation in the 1987–88 fiscal year for the following purposes:

(1) Four hundred fifty thousand dollars ($450,000) for the farmland mapping and monitoring program established pursuant to Section 65570.

(2) Two hundred fifty thousand dollars ($250,000) for purposes of Section 614 of the Public Resources Code.

(e) The first one million one hundred ten thousand dollars ($1,110,000) of revenue paid to the Controller pursuant to subdivision (f) in the 1988–89 fiscal year, and each fiscal year thereafter through the 1992–93 fiscal year, shall be deposited in the Soil Conservation Fund, which is created on July 1, 1988. Moneys from the fund are available, when appropriated by the Legislature, to (1) support the total cost of the farmlands mapping and monitoring program of the Department of Conservation pursuant to Section 66570, (2) support the soil conservation program identified in Section 614 of the Public Resources Code, and (3) contribute toward completion of the modern soil survey program identified in Section 612.5 of the Public Resources Code.

(f) When deferred taxes required by this section are collected, they shall be transmitted by the county treasurer to the Controller and deposited in the General Fund, except as provided in subdivisions (d) and (e). 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.

(g) This section shall remain operative only until July 1, 1993, and as of January 1, 1994, is repealed, unless a later enacted statute, which is enacted before July 1, 1993, deletes or extends that date.

SEC. 1.5. 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 current fair market 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) The first seven hundred thousand dollars ($700,000) of revenue paid to the Controller pursuant to subdivision (f) in the 1987–88 fiscal year shall be paid to the State Treasury to the credit of the Farmlands Mapping Account in the General Fund, which is continued in existence through June 30, 1988. These funds shall be available upon appropriation to the Department of Conservation in the 1987–88 fiscal year for the following purposes:

(1) Four hundred fifty thousand dollars ($450,000) for the farmland mapping and monitoring program established pursuant to Section 65570.

(2) Two hundred fifty thousand dollars ($250,000) for purposes of Section 614 of the Public Resources Code.

(e) The first one million one hundred ten thousand dollars ($1,110,000) of revenue paid to the Controller pursuant to subdivision (f) in the 1988–89 fiscal year, and each fiscal year thereafter through the 1992–93 fiscal year, shall be deposited in the Soil Conservation Fund, which is created on July 1, 1988. Moneys from the fund are available, when appropriated by the Legislature, to (1) support the total cost of the farmlands mapping and monitoring program of the Department of Conservation pursuant to Section 66570, (2) support the soil conservation program identified in Section 614 of the Public Resources Code, and (3) contribute

toward completion of the modern soil survey program identified in Section 612.5 of the Public Resources Code.

(f) 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, except as provided in subdivisions (d) and (e). 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.

(g) This section shall remain operative only until July 1, 1993, and as of January 1, 1994, is repealed, unless a later enacted statute, which is enacted before July 1, 1993, deletes or extends that date.

SEC. 2. Section 51283 is added to the Government Code, 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 it finds 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 canceled, 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 that 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) The first eight hundred seventy thousand dollars ($870,000) of revenue paid to the Controller pursuant to subdivision (e) in the 1993–94 fiscal year, and each fiscal year thereafter, shall be deposited in the Soil Conservation Fund, which is hereby created. Moneys from the fund are available, when appropriated by the Legislature, to support the total cost of the farmlands mapping and monitoring program of the Department of Conservation pursuant to Section 66570. When additional revenues are available for deposit in the fund, up to two hundred fifty thousand dollars ($250,000) shall be available for appropriation by the Legislature for support of the soil conservation program identified in Section 614 of the Public Resources Code.

(e) When deferred taxes required by this section are collected, they shall be transmitted by the county treasurer to the Controller and deposited in the General Fund, except that up to eight hundred seventy thousand dollars ($870,000) per year shall be deposited in the Soil Conservation 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.

(f) This section shall become operative on July 1, 1993.

SEC. 2.5. Section 51283 is added to the Government Code, 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 current fair market 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 it finds 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 canceled, 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 that 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) The first eight hundred seventy thousand dollars ($870,000) of revenue paid to the Controller pursuant to subdivision (e) in the 1993–94 fiscal year, and each fiscal year thereafter, shall be deposited in the Soil Conservation Fund, which is hereby created. Moneys from the fund are available, when appropriated by the Legislature, to support the total cost of the farmlands mapping and monitoring program of the Department of Conservation pursuant to Section 66570. When additional revenues are available for deposit in the fund, up to two hundred fifty thousand dollars ($250,000) shall be available for appropriation by the Legislature for support of the soil conservation program identified in Section 614 of the Public Resources Code.

(e) When deferred taxes required by this section are collected, they shall be transmitted by the county treasurer to the Controller and deposited in the General Fund, except that up to eight hundred seventy thousand dollars ($870,000) per year shall be deposited in the Soil Conservation 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.

(f) This section shall become operative on July 1, 1993.

SEC. 3. Section 612.5 is added to the Public Resources Code, to read:

612.5. (a) The Legislature hereby finds and declares all of the following:

(1) It is in the state's public interest to have an accurate inventory of the state's soil resources.

(2) In California, the United States Soil Conservation Service has been responsible for undertaking soil surveys and soils information for many of California's agricultural counties is outdated or unavailable.

(3) Information on soils is needed for agricultural management, water and soil conservation activities, engineering and land use planning, and state and local policy decisions. Completion of the

California Farmland Mapping and Monitoring Program is contingent upon availability of accurate, modern soil surveys.

(4) State funding of soil surveys has been limited to soil vegetation surveys on wildlands and no state contributions have been made toward the completion of modern soil surveys in California on cropland. In recent years, every state with incomplete soil surveys on farmland, except California, has cost-shared with the United States Soil Conservation Service to complete those surveys.

(5) Federal funding for the soil survey program of the United States Soil Conservation Service has been declining in real dollars in the past several years and is projected to be further reduced under the requirements of the Gramm-Rudman-Hollings Deficit Reduction Act.

(6) Therefore, it is in California's interest to authorize the department to assist the United States Soil Conservation Service with the completion of soil surveys.

(b) The department shall provide financial assistance to the United States Soil Conservation Service to undertake or complete soil surveys in areas of this state where the surveys have not been completed, including, but not limited to, portions of the Counties of San Joaquin, Yuba, Colusa, Butte, Fresno, Kern, Tulare, Stanislaus, and Lassen. Financial assistance shall be applied to field work which includes on-site soils mapping, report writing, manuscript preparation, and final correlation of soils data.

(c) In allocating funds for completion of soil surveys in the United States Soil Conservation Service soil survey areas in California, the department shall consider criteria which includes, but are not limited to, all of the following:

(1) Voids in important farmland maps.

(2) Rate and type of land use changes.

(3) Extent of erosion, alkalinity, and other soil resource problems.

(4) Farm-gate value of agricultural production.

(5) Specific soil-related problems.

(6) Status of ongoing soil surveys.

(7) Extent of cropland in each county.

(8) Availability of local funding or other support.

(d) The department shall make a report on the status of the soil survey program to the Legislature no later than February 1, 1989.

SEC. 4. Section 614 is added to the Public Resources Code, to read:

614. (a) In order to implement the soil conservation plan which is adopted by the soil conservation committee, the department shall conduct a study and propose an implementation strategy to meet the intent of the plan. The study shall include, but not be limited to, all of the following:

(1) An assessment of the structural and policy changes needed in the department to carry out the soil conservation plan.

(2) A review of the provisions of Division 9 (commencing with Section 9000) for the purposes of providing a framework for soil

conservation administration at the state and local levels.

(3) Recommendations on how the department can best deliver soil conservation services.

The department shall report the results of this study to the Legislature on or before December 1, 1988.

(b) The department shall conduct a study of resource conservation districts in California. The study shall include, but not be limited to, all of the following:

(1) A review of the provisions of Division 9 (commencing with Section 9000) to determine the changes in policy and structure necessary to enable resource conservation districts to better provide soil conservation assistance.

(2) Recommendations on the consolidation and reorganization of resource conservation districts.

The department shall report the result of this study to the Legislature on or before December 1, 1989.

(c) The department shall provide soil conservation advisory services to local governments, land owners, farmers and ranchers, resource conservation districts, and the general public. The services shall include, but not be limited to, all of the following:

(1) State level liaison with the resource conservation districts.

(2) Review of environmental impact reports as required under the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(3) Provision of information on the soil conservation components of the 1985 Food Security Act.

(4) Assistance to local governments on the development of soil conservation guidelines for general plans.

(5) Responding to inquiries from the general public.

From funds appropriated for purposes of this section, an amount, not to exceed fifty thousand dollars ($50,000), shall be utilized for the purposes of this subdivision.

SEC. 5. Section 677 of the Public Resources Code is amended to read:

677. The board shall nominate, and the director shall appoint, the State Geologist, who shall either be registered in compliance with the Geologist and Geophysicist Act at least one year from the date of appointment, or the Board of Geologists and Geophysicists may, upon the review of academic and professional experience, grant registration. The State Geologist shall possess general knowledge of mineral resources, structural geology, seismology, engineering geology, and related disciplines in science and engineering, and the reclamation of mined lands and waters. The State Geologist shall be Chief of the Division of Mines and Geology and shall administer the policies of the board under the supervision of the director.

SEC. 6. Section 1.5 of this bill incorporates amendments to Section 51283 of the Government Code proposed by both this bill and SB 338. Sections 1.5 and 2.5 of this bill shall only become operative if (1) both bills are enacted and become effective on January 1, 1988,

(2) each bill amends Section 51283 of the Government Code, and (3) this bill is enacted after SB 338, in which case Sections 1 and 2 of this bill shall not become operative.

SEC. 7. The sum of two hundred fifty thousand dollars ($250,000) received by the Controller pursuant to subdivision (e) of Section 51283 of the Government Code for contract cancellations and deposited in the 1987–88 fiscal year in the Farmlands Mapping Account in the General Fund is hereby appropriated from the Farmlands Mapping Account in the 1987–88 fiscal year to the Department of Conservation for carrying out Section 614 of the Public Resources Code.

CHAPTER 1309

An act to amend Section 4021 of the Health and Safety Code, relating to health.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 4021 of the Health and Safety Code is amended to read:

4021. (a) The department may grant one or more variances from drinking water standards, treatment techniques, or requirements to a public water system which, because of characteristics of the raw water sources which are reasonably available to the system, cannot meet the requirements respecting the maximum contaminant levels of the drinking water, despite application of the best technology, treatment techniques, or other means which the department finds are generally available, taking costs into consideration. Before the department may grant a variance under this section, the department shall find that the variance will not result in an unreasonable risk to the health of users.

(b) If the department grants a variance under subdivision (a), the supplier shall present a schedule acceptable to the department for the accomplishment, within one year of the date the variance is granted, of both of the following:

(1) Compliance with each contaminant level requirement with respect to which the variance was granted.

(2) Implementation of interim control measures which the department may require for each contaminant subject to the variance during the period ending with the date full compliance is required.

(c) The department may grant an exemption from any requirement respecting a maximum contaminant level or any treatment technique upon a finding that the public water system

meets all of the following conditions:

(1) The system was in operation on the effective date of this chapter.

(2) The public water system is unable to comply with the contaminant level or treatment technique requirements due to compelling factors, which may include economic factors.

(3) The grant of the exemption will not result in an unreasonable risk to health.

If the department grants an exemption under this subdivision, the department shall prescribe a schedule as set forth in subdivision (b) which shall be subject to the same terms and conditions.

(d) Any schedule prescribed under this section shall require compliance with the drinking water standards with respect to each contaminant as expeditiously as the department may determine reasonable. Issuance of the variance or exemption shall be conditioned upon compliance with the schedule.

(e) Before any schedule prescribed under this section may take effect, the department shall provide an opportunity for a public hearing on the schedule. Notice of the public hearing shall be given by the department in writing to the operator of the public water system seeking the variance or exemption and to the public, as provided in Section 6061 of the Government Code, in a form prescribed by the department.

(f) No exemption and no schedule prescribed in connection with this chapter may continue for more than seven years.

(g) Notwithstanding subdivisions (a) to (f), inclusive, at the request of the board of directors of the Big Bear City Community Services District or the Twentynine Palms Water District, the department shall grant a variance from the primary maximum contaminant level for fluoride contained in Title 22 of the California Administrative Code unless the department, after a public hearing, determines that there is substantial community opposition to the variance. A variance granted under this subdivision shall prohibit fluoride levels in excess of 75 percent of the federal Environmental Protection Agency standard or three milligrams per liter, whichever is higher, shall be valid for a period up to 30 years, and shall provide that the variance may be withdrawn upon reasonable notice by the department if the department determines that the community no longer accepts the fluoride level authorized in the variance. If substantial community concerns arise, the board of directors of the district which has jurisdiction shall conduct public hearings, determine the fluoride level which is acceptable to the community, and apply to the department for appropriate changes in the variance.

CHAPTER 1310

An act to amend Sections 18962 and 18979 of, and to add and repeal Chapter 3 (commencing with Section 16200) of Part 4 of Division 9 of, the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987]

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

SECTION 1. Chapter 3 (commencing with Section 16200) is added to Part 4 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 3. CHILD WELFARE TRAINING

Article 1. General Provisions

16200. Unless the context requires otherwise, the definitions set forth in this section shall govern the construction of this chapter.

(a) " Program" means the Child Welfare Training Program.

(b) "Department" means the State Department of Social Services.

Article 2. Child Welfare Training Program

16205. The department shall select and award a grant to a private nonprofit or public entity for the purpose of establishing a statewide multipurpose child welfare training program.

16206. (a) The purpose of the program is to develop and implement statewide coordinated training programs designed specifically to meet the needs of county child protective service social workers assigned emergency response, family maintenance, family reunification, permanent placement, and adoptions responsibilities. It is the intent of the Legislature that the program include training for other agencies under contract with county welfare departments to provide child welfare services. In addition, the program shall provide training programs for persons defined as mandated child abuse reporters pursuant to Sections 11165 and following of the Penal Code. The program shall provide the following services to the extent possible within the total allocation. If allocations are insufficient, the department, in consultation with the grantee or grantees and the Child Welfare Training Advisory Board, shall prioritize the efforts of the program, giving primary attention to the most urgently needed services. However, county child protective service social workers assigned emergency response responsibilities shall receive first priority for training pursuant to this

act.

(b) The program shall provide practice-relevant training for mandated child abuse reporters and all members of the child welfare delivery system which will address critical issues affecting the well-being of children, and shall develop curriculum materials and training resources for use in meeting staff development needs of mandated child abuse reporters and child welfare personnel in public and private agency settings.

This training shall include all of the following:

(1) Crisis intervention.

(2) Investigative techniques.

(3) Rules of evidence.

(4) Indicators of abuse and neglect.

(5) Assessment criteria.

(6) Intervention strategies.

(7) Legal requirements of child protection, including requirements of child abuse reporting laws.

(8) Case management.

(9) Using community resources.

The training may also include any or all of the following:

(1) Child development and parenting.

(2) Intake, interviewing, and initial assessment.

(3) Casework and treatment.

(4) Medical aspects of child abuse and neglect.

(c) Prior to January 1, 1989, the department shall provide the Legislative Analyst and the Select Committee on Children and Youth with a listing of the counties participating in the program, including the number of persons trained in each county.

(d) The training program shall assess the program's performance at least annually and forward it to the State Department of Social Services for an evaluation and report to the Legislative Analyst. The first report shall be forwarded to the Legislative Analyst no later than January 1, 1990, and on the first of January in any subsequent years. The assessment shall include at minimum the following:

(1) The number of persons trained.

(2) The type of training provided.

(3) The degree to which the training is perceived by participants as useful in practice.

16207. Nothing in this chapter is intended to replace training requirements established by the department in regulations contained in Sections 30-196 and 30-272 of the department's manual of policies and procedures.

Article 3. Child Welfare Training Advisory Board

16210. (a) The department shall establish a Child Welfare Training Advisory Board to oversee training programs as specified by this chapter.

(b) The advisory board shall be composed of nine members,

consisting of representatives from child welfare, legal, judicial, and medical disciplines, and representatives from the public sector, who shall advise the director on the development of training programs and materials and other matters as deemed appropriate by the executive director. The board shall be appointed by the Director of Social Services. The advisory board members shall have demonstrated expertise in areas including, but not limited to, sexual, physical, and emotional abuse of children; infant abuse; adolescent abuse; treatment of physically abused, sexually abused, or emotionally abused minors; and special needs of infants and minors.

Article 4. Funding

16215. The appropriation in support of the Child Welfare Training Program shall be provided annually through the Budget Act.

Article 5. Operative Effect

16216. This chapter shall remain operative only to and including June 30, 1992, shall become inoperative July 1, 1992, and as of January 1, 1993, is repealed, unless a later enacted statute chaptered prior to that date extends or deletes that date.

SEC. 2. Section 18962 of the Welfare and Institutions Code is amended to read:

18962. (a) It is the intention of the Legislature that public and private child abuse and neglect prevention and intervention programs be encouraged by the funding of agencies addressing needs of high-risk children.

(b) Programs funded by this act shall be selected through a competitive process which shall include utilizing the following criteria:

(1) Priority shall be given to programs currently serving the needs of children at risk of abuse or neglect which have demonstrated effectiveness in prevention or intervention.

(2) Public and private agencies shall be eligible for funding provided that evidence is submitted as part of the application for funding to demonstrate broad-based community support. This evidence shall further demonstrate that proposed services are not duplicated in the community, are based on needs of the child at risk, and are supported by a local public agency, including, but not limited to, one of the following:

(A) County welfare department.
(B) Public law enforcement.
(C) County probation department.
(D) Board of supervisors.
(E) Public health department.
(F) Mental health department.
(G) Public schools.

(3) Services shall be culturally and linguistically appropriate to the populations served.

(4) Applicant agencies shall demonstrate the existence of a 10-percent cash or in-kind match, other than State Department of Social Services funding, which will support the goals of child abuse and neglect prevention and intervention.

(5) Services funded under this act may include the following: family counseling, day care, respite care, teaching and demonstrating homemakers, family workers, transportation, temporary in-home caretakers, psychiatric evaluations, health services, multidisciplinary services teams, and special law enforcement services. One and one-half percent of the funding provided for by this act shall be expended on statewide training and technical assistance operated by private nonprofit agencies pursuant to a grant from the Office of Child Abuse Prevention. The training and technical assistance funded shall be utilized for all of the following purposes:

(A) Multidisciplinary approaches to child abuse prevention, intervention, and treatment.

(B) Facilitation of local services networks.

(C) Establishment and support of child abuse councils.

(D) Dissemination of information addressing issues of child abuse among multicultural and special needs populations.

(6) Priority for services shall be given to children who are at high risk. These children shall include those who are being served by the county welfare departments for being neglected and other children who are referred for services by legal, medical, or social services agencies.

(7) Geographic equity throughout the state and service to minority populations shall be reflected in the funding of programs.

(8) Programs funded shall clearly be related to the needs of children, especially those from birth to 14 years.

(c) Nothing in the act shall preclude the Office of Child Abuse Prevention from entering into interagency agreements which shall facilitate the funding of programs. Monitoring responsibilities shall, however, be maintained by the Office of Child Abuse Prevention.

(d) The State Department of Social Services shall allocate funds appropriated by this act to counties based upon criteria which reflect the reported number of abused and neglected children in a county, such as police reports, including reports to the Criminal Identification and Information Branch of the Department of Justice, reports made to Child Protective Services, or other public reports which indicate a need for services. The State Department of Social Services shall develop a reporting instrument relevant to both urban and rural areas, which shall reflect recognized potential abuse factors such as unemployment levels, by percentage, drug and alcohol abuse, and teenage birth rate. This instrument shall be approved after consultation with the appropriate state level advisory committees, legislative committees, and private nonprofit agencies

operating statewide in the area of child abuse and neglect prevention. This instrument shall be used to develop future reports regarding the potential for child abuse and neglect. Rural counties shall be provided a base allocation of fifty thousand dollars ($50,000) per county. Rural counties are those having populations of under 125,000.

SEC. 3. Section 18979 of the Welfare and Institutions Code is amended to read:

18979. Notwithstanding Section 13340 of the Government Code, eleven million two hundred fifty thousand dollars ($11,250,000) is hereby appropriated from the General Fund to the office for the purposes of this chapter, to be allocated as follows:

(a) Eight hundred fifty thousand dollars ($850,000) for the establishment of prevention training centers and for administrative costs of the department, to be allocated for the period commencing January 1, 1985, and ending June 30, 1985, as follows:

(1) Four hundred eighty-seven thousand five hundred dollars ($487,500) for startup and operating of the prevention training centers, to be allocated as follows:

(A) Two hundred eighteen thousand seven hundred fifty dollars ($218,750) for the northern California prevention training center.

(B) Two hundred sixty-eight thousand seven hundred fifty dollars ($268,750) for the southern California prevention training center.

(2) Three hundred sixty-two thousand five hundred dollars ($362,500) for administrative costs of the department.

(3) Any unexpended allocations pursuant to this subdivision for the 1984–85 fiscal year shall be carried forward for the 1985–86 fiscal year.

(b) Ten million four hundred thousand dollars ($10,400,000) for the continuation of the prevention training centers, primary prevention programs, and administrative costs to be allocated for the 1985–86 fiscal year, as follows:

(1) Nine million five hundred thousand dollars ($9,500,000) for the operating costs of primary prevention programs. Funding for the primary prevention programs shall be maintained at a level at least equal to the amount allocated in the Budget Act of 1987, at least until June 30, 1989, or until the State Department of Social Services completes the evaluation of this program required by Section 18978.5, whichever occurs later.

(2) Seven hundred thousand dollars ($700,000) for the operating costs of the prevention training centers, to be allocated as follows:

(A) Three hundred thousand dollars ($300,000) for the northern California prevention training center.

(B) Four hundred thousand dollars ($400,000) for the southern California prevention training center.

(3) Two hundred thousand dollars ($200,000) for administrative costs of the department.

CHAPTER 1311

An act to amend Sections 7085, 7085.3, 7085.4, 7085.6, and 7085.8 of, to add Sections 7085.2 and 7085.5 to, and to repeal and add Section 7085.7 of, the Business and Professions Code, relating to contractors, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987.]

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

SECTION 1. Section 7085 of the Business and Professions Code is amended to read:

7085. After investigating any verified complaint alleging a violation of Section 7107, 7109, 7110, 7113, 7119, or 7120, and any complaint arising from a contract involving works of improvements as defined in Section 7151 and finding a probable violation, the registrar may, with the concurrence of both the licensee and the complainant, refer the alleged violation, and any dispute between the licensee and the complainant arising thereunder, to arbitration pursuant to this article, provided the registrar finds that:

(a) There is evidence that the complainant has suffered or is likely to suffer material damages as a result of a violation of Section 7107, 7109, 7110, 7113, 7119, or 7120, and any complaint arising from a contract involving works of improvement as defined in Section 7151.

(b) There are reasonable grounds for the registrar to believe that the public interest would be better served by arbitration than by disciplinary action.

(c) The licensee does not have a history of repeated or similar violations.

(d) The licensee is in good standing.

(e) The licensee does not have any outstanding disciplinary actions filed against him or her.

(f) The parties have not previously agreed to private arbitration of the dispute pursuant to contract or otherwise.

For the purposes of subdivision (a), "material damages" shall be not less than five hundred dollars ($500) nor more than twenty-five thousand dollars ($25,000).

SEC. 2. Section 7085.2 is added to the Business and Professions Code, to read:

7085.2. An arbitrator may render an award and that award shall be deemed to be an order of the registrar.

SEC. 3. Section 7085.3 of the Business and Professions Code is amended to read:

7085.3. Once the registrar determines the scope of the dispute and that arbitration would be a suitable means of resolving the dispute, the registrar shall notify the complainant and the licensee

of this decision. The registrar shall also notify the complainant of the consequences of selecting administrative arbitration over other remedies and shall also advise the parties of their rights to retain counsel at their own expense. The registrar shall forward an "agreement to arbitrate" to the complainant and the licensee. This agreement shall be returned to the registrar within 30 calendar days of the date that the agreement is mailed by the registrar. The return of this agreement by the parties shall authorize the registrar to proceed with administrative arbitration. If either or both of the parties fail to return the agreement within the 30-day period, the registrar shall assume that the parties do not wish to agree to arbitration and shall proceed with the normal complaint or investigative process.

SEC. 4. Section 7085.4 of the Business and Professions Code is amended to read:

7085.4. Once the complainant and the licensee authorize the registrar to proceed with administrative arbitration, the registrar shall refer the agreement to arbitrate to an arbitrator or an arbitration association approved by the board.

SEC. 5. Section 7085.5 is added to the Business and Professions Code, to read:

7085.5. Arbitrations of disputes arising out of cases filed with or by the board shall be conducted in accordance with the following rules:

(a) All "agreements to arbitrate" shall include the names, addresses, and telephone numbers of the parties to the dispute, issue in dispute, the amount in dollars or any other remedy sought. The appropriate fee shall be paid by the board from the Contractors' License Fund.

(b) The board or appointed arbitration association shall appoint an arbitrator in the following manner: immediately after the filing of the agreement to arbitrate, the board or appointed arbitration association shall submit simultaneously to each party to the dispute, an identical list of names of persons chosen from the panel. Each party to the dispute shall have seven days from the mailing date in which to cross off any names to which it objects, number the remaining names to indicate the order of preference, and return the list to the board or appointed arbitration association. If a party does not return the list within the time specified, all persons named therein shall be deemed acceptable. From among the persons who have been approved on both lists, and in accordance with the designated order of mutual preference, the board or appointed arbitration association shall appoint an arbitrator to serve. If the parties fail to agree on any of the parties named, if acceptable arbitrators are unable to act, or if, for any other reason, the appointment cannot be made from the submitted lists, the board or appointed arbitration association shall have the power to make the appointment from among other members of the panel without the submission of any additional lists. Each dispute shall be heard and

determined by one arbitrator unless the board or appointed arbitration association, in its discretion, directs that a greater number of arbitrators be appointed.

(c) No person shall serve as an arbitrator in any arbitration in which that person has any financial or personal interest in the result of the arbitration. Prior to accepting an appointment, the prospective arbitrator shall disclose any circumstances likely to prevent a prompt hearing or to create a presumption of bias. Upon receipt of that information, the board or appointed arbitration association shall immediately replace the arbitrator or communicate the information to the parties for their comments. Thereafter, the board or appointed arbitration association shall determine whether the arbitrator should be disqualified and shall inform the parties of its decision, which shall be conclusive.

(d) The board or appointed arbitration association may appoint another arbitrator if a vacancy occurs, or if an appointed arbitrator is unable to serve in a timely manner.

(e) The board or appointed arbitration association shall provide the parties with a list of the times and dates, and locations of the hearing to be held. The parties shall notify the arbitrator, within seven calendar days of the mailing of the list, of the times and dates convenient to each party. If the parties fail to respond to the arbitrator within the seven-day period, the arbitrator shall fix the time, place, and location of the hearing. An arbitrator may, at the the arbitrator's sole discretion, make an inspection of the construction site which is the subject of the arbitration. The arbitrator shall notify the parties of the time and date set for the inspection. Any party who so desires may be present at the inspection.

(f) Any person having a direct interest in the arbitration is entitled to attend the hearing. The arbitrator shall otherwise have the power to require the exclusion of any witness, other than a party or other essential person, during the testimony of any other witness. It shall be discretionary with the arbitrator to determine the propriety of the attendance of any other person.

(g) Hearings shall be adjourned by the arbitrator only for good cause.

(h) A record is not required to be taken of the proceedings, however, any party to the proceeding may have a record made at its own expense. The parties may make appropriate notes of the proceedings.

(i) The hearing shall be conducted by the arbitrator in any manner which will permit full and expeditious presentation of the case by both parties. Consistent with the expedited nature of arbitration, the arbitrator shall establish the extent of, and schedule for, the protection of relevant documents and other information, the identification of any witnesses to be called, and a schedule for any hearings to elicit facts solely within the knowledge of one party. The complaining party shall present its claims, proofs, and witnesses, who shall submit to questions or other examination. The defending party

shall then present its defenses, proofs, and witnesses, who shall submit to questions or other examination. The arbitrator has discretion to vary this procedure but shall afford full and equal opportunity to the parties for the presentation of any material or relevant proofs.

(j) The arbitration may proceed in the absence of any party who, after due notice, fails to be present. The arbitrator shall require the attending party to submit supporting evidence in order to make an award. An award shall not be made solely on the default of a party.

(k) The arbitrator shall be the sole judge of the relevancy and materiality of the evidence offered and conformity to legal rules of evidence shall not be required.

(*l*) The arbitrator may receive and consider documentary evidence. Documents to be considered by the arbitrator may be submitted prior to the hearing. However, a copy shall be simultaneously transmitted to all other parties and to the board or appointed arbitration association for transmittal to the arbitrator or board appointed arbitrator.

(m) The arbitrator shall specifically inquire of the parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, the arbitrator shall declare the hearing closed and minutes thereof shall be recorded. If briefs are to be filed, the hearing shall be declared closed as of the final date set by the arbitrator for the receipt of briefs. If documents are to be filed as requested by the arbitrator and the date set for their receipt is later than that set for the receipt of briefs, the later date shall be the date of closing the hearings. The time limit within which the arbitrator is required to make the award shall commence to run, in the absence of other agreements by the parties, upon the closing of the hearings.

(n) The hearing may be reopened on the arbitrator's own motion. The arbitrator shall have 30 calendar days from the closing of the reopened hearing within which to make an award.

(o) Any party who proceeds with the arbitration after knowledge that any provision or requirement of these rules has not been complied with, and who fails to state his or her objections to the arbitrator in writing, within 10 calendar days of close of hearing, shall be deemed to have waived his or her right to object.

(p) Any papers or process necessary or proper for the initiation or continuation of an arbitration under these rules and for any court action in connection therewith, or for the entry of judgment on an award made thereunder, may be served upon any party (1) by regular mail addressed to that party or his or her attorney at the parties' last known addresses, or (2) by personal service.

(q) The award shall be made promptly by the arbitrator, and unless otherwise agreed by the parties no later than 30 calendar days from the date of closing the hearing, or if oral hearing has been waived, from the date of transmitting the final statements and proofs to the arbitrator.

The arbitrator may for good cause extend any period of time

established by these rules, except the time for making the award. The arbitrator shall notify the parties of any extension and the reason therefor.

(r) The arbitrator may grant any remedy or relief which the arbitrator deems just and equitable and within the scope of the board's referral and the requirements of the board including, but not limited to, specific performance of a contract. The arbitrator, in his or her sole discretion, may award costs or expenses.

(s) The award shall become final 30 calendar days from the date the arbitration award is issued. The arbitrator, upon written application of a party to the arbitration, may correct the award upon the following grounds: (1) there was an evident miscalculation of figures or an evident mistake in the description of any person, things, or property referred to in the award; (2) there is any other clerical error in the award, not affecting the merits of the controversy.

An application for correction of the award shall be made within 10 calendar days of the date of service of the award by serving a copy of the application on the arbitrator, and all other parties to the arbitration. Any party to the arbitration may make a written objection to the application for correction by serving a copy of the written objection on the arbitrator, the board, and all other parties to the arbitration, within 10 calendar days of the date of service of the application for correction.

The arbitrator shall either deny the application or correct the award within 30 calendar days of the date of service of the original award by mailing a copy of the denial or correction to all parties to the arbitration. Any appeal therefrom shall be filed with a court of competent jurisdiction and a true copy thereof shall be filed with the arbitrator or appointed arbitration association within 30 calendar days of the issuance of the award, before the award becomes final. The award shall be in writing, and shall be signed by the arbitrator or a majority of them. If no appeal is filed within the 30 calendar day period, it shall become a final order of the registrar.

(t) Service of the award by certified mail shall be effective if a certified letter containing the award, or a true copy thereof, is mailed by the arbitrator or arbitration association to each party or to a party's attorney of record at their last known address, address of record, or by personally serving any party. Service may be proved in the manner authorized in civil actions.

(u) The expenses of witnesses, expert witnesses, or reports for either side shall be paid by the party producing the witnesses or reports. The registrar shall advise the parties that names of industry experts may be obtained by requesting this information from the registrar.

(v) The arbitrator shall interpret and apply these rules insofar as they relate to his or her powers and duties.

(w) The following shall apply as to court procedure and exclusion of liability:

(1) Neither the board or appointed arbitration association nor any

arbitrator in a proceeding under these rules is a necessary party in judicial proceedings relating to the arbitration.

(2) Parties to these rules shall be deemed to have consented that judgment upon the arbitration award may be entered in any federal or state court having jurisdiction thereof.

(3) Neither the board nor appointed arbitration association nor any arbitrator shall be liable to any party for any act or omission in connection with any arbitration conducted under these rules.

SEC. 6. Section 7085.6 of the Business and Professions Code is amended to read:

7085.6. The failure of a licensee to comply with an arbitration award rendered under this article shall result in the automatic suspension of a license by operation of law. The registrar shall notify the licensee by certified mail of the failure to comply with the arbitrator's award, and that the license shall be automatically suspended 30 calendar days from the date of that notice. The licensee may appeal the suspension for noncompliance within 15 calendar days after service of the notice by written notice to the registrar. Reinstatement may be made at any time following the suspension by complying with the arbitrator's award and the final order of the registrar. If no reinstatement of the license is made within one year of the date of the automatic suspension, the license shall be automatically revoked by operation of law for a period to be determined by the registrar pursuant to Section 7102.

SEC. 7. Section 7085.7 of the Business and Professions Code is repealed.

SEC. 8. Section 7085.7 is added to the Business and Professions Code, to read:

7085.7. A complainant may enforce an arbitrator's award in accordance with Chapter 2 (commencing with Section 1285) of Title 9 of Part 3 of the Code of Civil Procedure.

SEC. 9. Section 7085.8 of the Business and Professions Code is amended to read:

7085.8. Any action of the registrar issued pursuant to this article shall be subject to Sections 7013 and 7085.9.

SEC. 9.5. The sum of four hundred fifty thousand dollars ($450,000) is appropriated from the Contractors' License Fund to the Contractors' State License Board to carry out Article 6.2 (commencing with Section 7085) of Chapter 9 of Division 3 of the Business and Professions Code.

SEC. 10. For the purposes of implementing the arbitration program authorized by this act, the Contractors' State License Board, in concurrence with the Department of Consumer Affairs, shall:

(a) Develop and administer a training program for those employees of the board who will have the responsibility to define the scope of the dispute and negotiate the agreement to arbitrate between the parties.

(b) Develop a brochure regarding the arbitration program and

the rules of process to be given to the parties prior to entering into an agreement to arbitrate, and develop other forms as may be necessary to carry out the provisions of the program.

(c) Contract with a consultant to evaluate and assist with the program. This evaluation, one year after the implementation of the program, shall include a survey of program participants and an assessment of savings to be derived from the expansion of the program.

(d) Establish and maintain a list of board appointed arbitrators and board appointed arbitration associations for referrals of agreements to arbitrate.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide more expeditious resolution of consumer complaints than is currently possible through the investigative process utilized by the Contractors' State License Board, and to process the pending backlog of disputes as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1312

An act to amend Section 23901 of the Education Code, relating to public retirement.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 23901 of the Education Code is amended to read:

23901. Any member who comes within any of the following descriptions may be retired for service at his or her option upon written application therefor to the board:

(a) Who has attained age 55 years or more and who has at least five years of credited California service, at least one year of which has been performed subsequent to the most recent refund of accumulated retirement contributions, if five of the final six years of credited service have been in this state.

(b) Who is credited with service which is not used as a basis for benefits under any other public retirement system, if he or she has attained age 55 and retires concurrently under the Public Employees' Retirement System, the Legislators' Retirement System, the University of California Retirement System, or a local system.

In the calculation of allowances of members who qualify for retirement under subdivision (b), and who are not qualified for

retirement under subdivision (a), there shall be excluded any service performed in other states of the United States, its territories and possessions or in the Dominion of Canada.

Application for retirement under subdivision (b) may be made at any time, and those applicants are not subject to Section 23907.

CHAPTER 1313

An act to add Chapter 6.5 (commencing with Section 13475) to Division 7 of the Water Code, relating to water pollution control, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987]

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

SECTION 1. Chapter 6.5 (commencing with Section 13475) is added to Division 7 of the Water Code, to read:

CHAPTER 6.5. STATE WATER POLLUTION CONTROL REVOLVING FUND

13475. (a) The Legislature hereby finds and declares that since the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.) provides for establishment of a perpetual water pollution control revolving loan fund, which will be partially capitalized by federal contributions, it is in the interest of people of the state, in order to ensure full participation by the state under the federal Clean Water Act, to enact this chapter to authorize the state to establish and implement a state/federal water pollution control revolving fund in accordance with federal provisions, requirements, and limitations.

(b) The primary purpose of this chapter is to enact a statute consistent with the provisions and requirements of the federal Clean Water Act, as those provisions, requirements, and limitations relate to establishment, management, and operation of a state/federal water pollution control revolving fund. It is the intent of the Legislature that the terms of this chapter shall be liberally construed to achieve this purpose.

13476. As used in this chapter, unless the context otherwise requires:

(a) "Board" means the State Water Resources Control Board.

(b) "Federal Clean Water Act" or "federal act" means the federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.) and acts amendatory thereof or supplemental thereto.

(c) "Fund" means the State Water Pollution Control Revolving Fund.

(d) "Municipality" shall have the same meaning and construction as in the federal act and also includes all state, interstate, and intermunicipal agencies.

(e) "Publicly owned" means owned by a municipality.

13477. The State Water Pollution Control Revolving Fund is hereby created in the State Treasury, and, notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated without regard to fiscal years to the board for expenditure in accordance with this chapter. The board is the state agency responsible for administering the fund. In order to facilitate compliance with the federal Tax Reform Act of 1986 (Public Law 99-514), there is hereby established in the fund a Federal Revolving Loan Fund Account and a State Revolving Loan Fund Account. From time-to-time thereafter, the board may modify existing accounts in the fund and may establish other accounts in the fund, and in all other funds administered by the board, which the board deems appropriate or necessary for proper administration.

13478. The board may undertake any of the following:

(a) Enter into agreements with the federal government for federal contributions to the fund.

(b) Accept federal contributions to the fund.

(c) Use moneys in the fund for the purposes permitted by the federal act.

(d) Provide for the deposit of available and necessary state moneys into the fund.

(e) Make requests on behalf of the state for deposit into the fund of available federal moneys under the federal act and determine on behalf of the state appropriate maintenance of progress toward compliance with the enforceable deadlines, goals, and requirements of the federal act.

(f) Determine on behalf of the state that publicly owned treatment works which receive financial assistance from the fund will meet the requirements of, and otherwise be treated as required by, the federal act.

(g) Provide for appropriate audit, accounting, and fiscal management services, plans, and reports relative to the fund.

(h) Take such additional incidental action as may be appropriate for adequate administration and operation of the fund.

13479. (a) The board may enter into an agreement with the federal government for federal contributions to the fund only (1) when the state has appropriated any required state matching funds, and (2) when the board is prepared to commit to expenditure of any minimum amount in the fund in the manner required by the federal act.

(b) Any agreement between the board and the federal government shall contain those provisions, terms, and conditions required by the federal act, and any implementing federal rules, regulations, guidelines, and policies, including, but not limited to, agreement to the following:

(1) Moneys in the fund shall be expended in an expeditious and timely manner.

(2) All moneys in the fund as a result of federal capitalization grants shall be used to assure maintenance of progress toward compliance with the enforceable deadlines, goals, and requirements of the federal act, including any applicable municipal compliance deadlines.

(3) Publicly owned treatment works which will be constructed, in whole or in part, before federal fiscal year 1995 shall meet the requirements of, or otherwise be appropriately treated under the applicable provisions of, the federal act.

13480. (a) Moneys in the fund shall be used only for the permissible purposes allowed by the federal act, including providing financial assistance for the following purposes:

(1) The construction of publicly owned treatment works, as defined by Section 212 of the federal act, by any municipality.

(2) Implementation of a management program pursuant to Section 319 of the federal act.

(3) Development and implementation of a conservation and management plan under Section 320 of the federal act.

(4) Financial assistance, other than a loan, toward the nonfederal share of costs of any grant funded treatment works project, but only if that assistance is necessary to permit the project to proceed.

(b) Consistent with expenditure for authorized purposes, moneys in the fund may be used for the following purposes:

(1) Loans which shall (A) be made at or below market interest rates, (B) require annual payments of principal and any interest, with repayment commencing not later than one year after completion of the project for which the loan is made and full amortization not later than 20 years after project completion, (C) require the loan recipient to establish an acceptable dedicated source of revenue for repayment of any loan, and (D) contain such other terms and conditions as may be required by the board or the federal act or applicable rules, regulations, guidelines, and policies. To the extent permitted by federal law, the interest rate shall be set at a rate equal to 50 percent of the interest rate paid by the state on the most recent sale of state general obligation bonds and the interest rate shall be computed according to the true interest cost method. If the interest rate so determined is not a multiple of one-tenth of 1 percent, the interest rate shall be set at the multiple of one-tenth of 1 percent next above the interest rate so determined. Any loan from the fund used to finance costs of facilities planning, or the preparation of plans, specifications, or estimates for construction of publicly owned treatment works shall require that, if the loan recipient receives a grant under Section 201(g) and an allowance under Section 210(*l*)(1) of the federal act for nonfederal funds expended for that planning or preparation, the recipient shall promptly repay to the fund any portion of the loan used for the planning or preparation to the extent of that allowance.

(2) To buy or refinance the debt obligations of municipalities within the state at or below market rates if those debt obligations were incurred after March 7, 1985.

(3) To guarantee, or purchase insurance for, local obligations where that action would improve credit market access or reduce interest rates.

(4) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the state, if the proceeds of the sale of those bonds will be deposited in the fund.

(5) To establish loan guarantees for similar revolving funds established by municipalities.

(6) To earn interest.

(7) For payment of the reasonable costs of administering the fund and conducting activities under Title VI of the federal act. Those costs shall not exceed 4 percent of all federal contributions to the fund, except that if permitted by federal and state law, interest repayments into the fund and other moneys in the fund may be used to defray additional administrative and activity costs to the extent permitted by the federal government and approved by the Legislature in the Budget Act.

(8) For financial assistance toward the nonfederal share of the costs of grant funded treatment works projects to the extent permitted by the federal act.

13481. The fund shall be used to provide financial assistance only for projects which are (a) consistent with plans, if any, developed under Sections 205 (j), 208, 303 (e), 319, and 320 of the federal act, and (b) on the approved state priority list adopted under Section 216 of the federal act.

13482. (a) In accordance with the Clean Water Bond Law of 1984 (Chapter 13 (commencing with Section 13999)), the board, with the approval of the Clean Water Finance Committee, may transfer funds from the Clean Water Construction Grant Account to the fund for the purpose of meeting federal requirements for state matching moneys in the fund.

(b) Any repayment of fund moneys, including interest payments, and all interest earned on or accruing to any moneys in the fund, shall be deposited in the fund and shall be available, in perpetuity, for expenditure for the purposes and uses permitted by the federal act.

13483. (a) To the extent permitted by federal and state law, moneys in the fund may be used to rebate to the federal government all arbitrage profits required by the federal Tax Reform Act of 1986 (Public Law 99-514), or any amendment thereof or supplement thereto. To the extent that this use of the moneys in the fund is prohibited by federal or state law, any rebates required by federal law shall be paid from the General Fund or other sources, upon appropriation by the Legislature.

(b) Notwithstanding any other provision of law or regulation, the board may enter into contracts, or may procure those services and

equipment, which may be necessary to ensure prompt and complete compliance with any provisions relating to the fund imposed by either the federal Tax Reform Act of 1986 (Public Law 99-514) or the federal Clean Water Act.

13485. The board may adopt rules and regulations necessary or convenient to implement this chapter and to meet federal requirements pursuant to the federal act.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to assure maximum participation in federal funding sources, provide maximum opportunity for all California municipalities to participate in available financial assistance for construction of treatment works, assist municipalities in meeting statutory deadlines, and provide for continuation of prompt construction of needed treatment works, it is necessary that this act take effect immediately.

CHAPTER 1314

An act to amend Sections 18290, 18292.5, 22050, 22054, 22458, 22458.1, 22505, 22517, 24050, 24054, 24458, 24458.1, 24505, and 24517 of, and to add Sections 22014, 22458.8, 24014, and 24458.8 to, the Financial Code, relating to loans.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 18290 of the Financial Code is amended to read:

18290. (a) As used in this division:

(1) "Credit life insurance" and "credit disability insurance" have the same meanings as defined in Section 779.2 of the Insurance Code.

(2) "Credit loss-of-income insurance" means insurance issued to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is involuntarily unemployed, as defined in the policy.

(b) An industrial loan company may provide and collect the costs for credit life insurance on the life of one or more of the borrowers, or credit disability, or loss-of-income insurance, or any combination of these coverages, to provide indemnity for payments becoming due on the indebtedness, with his or her consent, the form to be approved by the Insurance Commissioner, and a copy, together with evidence of its approval by the Insurance Commissioner, to be filed with the commissioner, and in an amount not in excess of the amount

of the indebtedness. The amount charged to the borrower for credit life or disability insurance shall not exceed, in the case of credit life insurance, fifty cents ($0.50) per year per one hundred dollars ($100) of indebtedness (and in the same proportion for longer or shorter maturities and larger or smaller amounts) or the amount established by or pursuant to Section 779.35 of the Insurance Code, whichever is less, or, in the case of credit disability insurance, the amount established by or pursuant to Section 779.35 of the Insurance Code.

SEC. 2. Section 18292.5 of the Financial Code is amended to read:

18292.5. If credit loss-of-income insurance is provided pursuant to this division, it shall be subject to the following conditions:

(a) The insurance shall provide indemnity in accordance with the terms of the policy after any single period of continuous unemployment of 45 days or less as determined by the policy, after which benefits shall commence. The insurance may be offered with retroactive coverage to an earlier date based upon unemployment having continued for the period stated in the policy.

(b) The statement required by Section 18293 shall include disclosure of the term of the coverage, the conditions of coverage, the benefits to be paid, and the exclusions from coverage.

(c) The borrower shall sign a certificate of voluntary acceptance of any credit loss-of-income insurance purchased. The certificate shall state in boldface type which is larger than the type used in the loan contract that purchase of the insurance is not a necessary condition to receiving the loan and that the insurance may be canceled by the borrower at any time within 15 days after it goes into force, in which event a full refund shall be made of the premium paid.

(d) The minimum benefit shall be payment up to the agreed amount on not less than four benefit payments, as stated in the policy, which accrue during a covered period of unemployment, except that during the first 60 days after inception of the policy, the minimum benefit may be payment up to the agreed amount of one-half the number of benefit payments, as stated in the policy, which accrue during a covered period of unemployment. The maximum benefits shall be established in the contract of insurance.

(e) If combination credit disability and loss-of-income coverage is offered, credit disability and credit loss-of-income coverages shall also be offered separately.

(f) Benefits may not be denied because the insured cannot establish a valid claim for unemployment compensation benefits under Part 1 (commencing with Section 100) of Division 1 of the Unemployment Insurance Code solely because the former employer was not required to contribute to the State Unemployment Fund.

(g) If insurance with retroactive coverage is provided, the coverage shall provide for a prorated payment based upon the fraction of the month during which the insured is unemployed, provided that the insured is continuously unemployed during the waiting period set forth in the policy. If insurance without

retroactive coverage is provided, the coverage shall provide for a prorated payment based upon the fraction of the month during which the insured is unemployed, after first excluding the elimination period set forth in the policy. For the purpose of this subdivision, a month is any period of 30 consecutive days.

(h) When unemployment continues for a number of months equal to or greater than the maximum number of benefit payments stated in the policy, the final payment shall be equal to the difference between a benefit payment and the initial prorated payment.

(i) As used in this section, "benefit payment" means payment of an amount equal to a loan repayment installment or a maximum amount established in the contract of insurance, whichever is less.

(j) The minimum benefit payment offered may not be less than the amount of a loan repayment installment unless the borrower or borrowers have two or more sources of income. If the maximum benefit payment offered is less than the amount of a loan repayment installment, the borrower shall also be offered coverage in which the maximum benefit payment is equal to the amount of a loan repayment installment.

SEC. 3. Section 22014 is added to the Financial Code, to read:

22014. A "regulatory ceiling provision" is a statement in a section or subdivision which specifies an original bona fide principal loan amount at or above which that section or subdivision does not apply to a loan.

SEC. 4. Section 22050 of the Financial Code is amended to read:

22050. (a) This division does not apply to any person doing business under any law of this state or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, credit unions, small business investment companies, California business and industrial development corporations, or licensed pawnbrokers.

(b) This division does not apply to a broker-dealer acting pursuant to a certificate, then in effect, issued pursuant to Section 25211 of the Corporations Code.

(c) This division does not apply to a college or university making a loan for the purpose of pursuing a program or course of study leading to a degree or certificate.

SEC. 5. Section 22054 of the Financial Code is amended to read:

22054. Any section which refers to this section does not apply to any loan of the bona fide principal amount specified in the regulatory ceiling provision of that section or more if that provision is not used for the purpose of evading this division. In determining under Section 22053, 22053.1, 22451, or 22451.1, or any section which refers to this section whether a loan is a loan of a bona fide principal amount of the amount specified in that section or more and whether the regulatory ceiling provision of that section is used for the purpose of evading this division, the following principles apply:

(a) If a borrower applies for a loan in a principal amount of less than the specified amount and a loan to that borrower of a principal

amount of the specified amount or more is made by a licensed personal property broker, no adequate economic reason for the increase in the size of the loan exists, and by prearrangement or understanding between the borrower and the licensee a substantial payment is to be made upon the loan with the effect of reducing the principal amount of the loan to less than the specified amount within a short time after the making of the loan other than by reason of a requirement that the loan be paid in substantially equal periodical installments, then the loan shall not be deemed to be a loan of the bona fide principal amount of the specified amount or more and the regulatory ceiling provisions shall be deemed to be used for the purpose of evading this division unless the loan complies with the other provisions of the section which includes the regulatory ceiling provisions.

(b) If a loan made by a licensed personal property broker is in a principal amount of the specified amount or more, the fact that the transaction is in the form of a sale of accounts, chattel paper, contract rights, goods, or instruments or a lease of goods, or in the form of an advance on the purchase price of any of the foregoing, shall not be deemed to affect the loan or the bona fides of the amount thereof or to indicate that the regulatory ceiling provisions are used for the purpose of evading this division.

SEC. 6. Section 22458 of the Financial Code is amended to read:

22458. Insurance on tangible personal or real property offered as security shall not be deemed to be a collateral sale, purchase, or agreement within the terms of Section 22004, 22456, or 22457, when all the following are met:

(a) The insurance is sold at standard rates through licensed insurance brokers or agents.

(b) The policy is written to cover the property offered as security for a loan.

(c) The property is reasonably insured against loss for a reasonable term, which may be up to the term of the loan.

(d) The policy relating to personal property is made payable to the borrower or any member of his or her family even though the customary mortgagee clause is attached or the mortgagee is a coassured.

(e) Except in the case of purchase money encumbrances the amount of title insurance shall not exceed the principal amount of the loan which is secured by a deed of trust, mortgage, or lien on the real property which is the subject of the policy of title insurance.

(f) The policy of title insurance insures the lender or is made payable jointly to the lender and the borrower as their interests may appear.

(g) Title insurance is placed through a title insurance company, duly authorized to do business in the state in which the real property is located, at rates comparable to rates being used by other title insurance companies duly authorized to do business in that state.

(h) Title insurance is placed in connection with the renewal or

extension of a loan only when the additional cash advance is at least one thousand dollars ($1,000).

This section does not apply to any loan of a bona fide principal amount of ten thousand dollars ($10,000) or more, or to any commercial loan of a bona fide principal amount of five thousand dollars ($5,000) or more, or to any commercial loan made to a person engaged in the business of selling goods for the purpose of financing the purchase of goods for resale, or to a duly licensed personal property broker in connection with any such loan or loans as determined in accordance with Section 22054.

SEC. 7. Section 22458.1 of the Financial Code is amended to read:

22458.1. (a) Credit insurance shall not be deemed to be a collateral sale, purchase, or agreement within the terms of Section 22004, 22456, or 22457 when the insurance is provided in accordance with the provisions of the Insurance Code and this section.

As used in this division:

(1) "Credit insurance" means credit life, disability, and loss-of-income insurance, or any combination of these coverages.

(2) "Credit life insurance" and "credit disability insurance" have the same meanings as defined in Section 779.2 of the Insurance Code.

(3) "Credit loss-of-income insurance" means insurance issued to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is involuntarily unemployed, as defined in the policy.

(b) A licensee may provide credit insurance with the borrower's consent, the form to be approved by the Insurance Commissioner, and a copy, together with evidence of its approval by the Insurance Commissioner, to be filed with the commissioner, and in an amount not in excess of the amount of the indebtedness, and, with respect to credit life or disability insurance, may collect from the borrower an amount not in excess of that permitted by subdivision (h).

(c) If the loan is prepaid in full by cash, a new loan, refinancing or otherwise (except by that insurance) before the final installment date, the borrower shall receive a rebate of that amount computed in accordance with the formula approved by the Insurance Commissioner pursuant to Section 779.14 of the Insurance Code.

(d) When charges for the loan are precomputed in accordance with Section 22480, any permitted deferment charge may be computed on the combined total of the precomputed charge and the credit insurance charge. Only one deferment charge may be collected in connection with any loan contract irrespective of the number of borrowers, and only one borrower need be insured. The amount of the deferment charge may be deducted from the principal of the loan.

(e) If life or disability insurance is provided, and if the insured borrower dies or becomes disabled during the term of the loan contract, the insurance shall be sufficient to pay the total amount due on the loan (excluding unearned charges) outstanding on the date of death, or all amounts which become due on the loan thereafter

during the period of disability, as the case may be, without any exception, reservation, or limitation, subject, however, to the provisions of Section 22458.2.

(f) Any credit insurance provided shall be in force as soon as the loan is made. A licensee shall not require credit insurance as a condition of making a loan.

(g) If a borrower procures credit insurance by or through a licensee, the statement required by Section 22473 shall disclose the cost thereof to the borrower, and the licensee shall deliver or cause to be delivered to the borrower a copy of the policy, certificate, or other evidence thereof, within a reasonable time. In the event a licensee provides credit disability or loss-of-income insurance pursuant to this division, the licensee shall also deliver an understandable written statement to the borrower detailing the conditions when the borrower will be entitled to make a claim under the insurance policy and the procedure to be followed in making the claim. This statement shall be first approved by the Insurance Commissioner.

(h) The amount charged to the borrower for credit life or disability insurance shall not exceed in the case of credit life insurance fifty cents ($0.50) per year per one hundred dollars ($100) of indebtedness (and in the same proportion for longer or shorter maturities and larger or smaller amounts) or the amount established by or pursuant to Section 779.35 of the Insurance Code, whichever is less, or, in the case of credit disability insurance, the amount established by or pursuant to Section 779.35 of the Insurance Code.

(i) Nothing in this article shall prevent a licensee from selling insurance as other business when authorized pursuant to Section 22404.

This section does not apply to any loan of a bona fide principal amount of ten thousand dollars ($10,000) or more, or to any commercial loan of a bona fide principal amount of five thousand dollars ($5,000) or more, or to any commercial loan made to a person engaged in the business of selling goods for the purpose of financing the purchase of goods for resale, or to a duly licensed personal property broker in connection with any such loan or loans as determined in accordance with Section 22054.

SEC. 8. Section 22458.8 is added to the Financial Code, to read:

22458.8. If credit loss-of-income insurance is provided pursuant to this division, it shall be subject to the following conditions:

(a) The insurance shall provide indemnity in accordance with the terms of the policy after any single period of continuous unemployment of 45 days or less as determined by the policy, after which benefits shall commence. The insurance may be offered with retroactive coverage to an earlier date based upon unemployment having continued for the period stated in the policy.

(b) The statement required by Section 22473 shall include disclosure of the term of the coverage, the conditions of coverage, the benefits to be paid, and the exclusions from coverage.

(c) The borrower shall sign a certificate of voluntary acceptance of any credit loss-of-income insurance purchased. The certificate shall state in boldface type which is larger than the type used in the loan contract that purchase of the insurance is not a necessary condition to receiving the loan and that the insurance may be canceled by the borrower at any time within 15 days after it goes into effect in which event a full refund shall be made of the premium paid.

(d) The minimum benefit shall be payment up to the agreed amount on not less than four benefit payments, as stated in the policy, which accrue during a covered period of unemployment, except that during the first 60 days after inception of the policy, the minimum benefit may be payment up to the agreed amount of one-half the number of benefit payments, as stated in the policy, which accrue during a covered period of unemployment. The maximum benefits shall be established in the contract of insurance.

(e) If combination credit disability and credit loss-of-income coverage is offered, credit disability and credit loss-of-income coverage shall also be offered separately.

(f) Benefits may not be denied because the insured cannot establish a valid claim for unemployment compensation benefits under Part 1 (commencing with Section 100) of Division 1 of the Unemployment Insurance Code solely because the former employer was not required to contribute to the State Unemployment Fund.

(g) If insurance with retroactive coverage is provided, the coverage shall provide for a prorated payment based upon the fraction of the month during which the insured is unemployed, provided that the insured is continuously unemployed during the waiting period set forth in the policy. If insurance without retroactive coverage is provided, the coverage shall provide for a prorated payment based upon the fraction of the month during which the insured is unemployed, after first excluding the elimination period set forth in the policy. For the purpose of this subdivision, a month is any period of 30 consecutive days.

(h) When unemployment continues for a number of months equal to or greater than the maximum number of benefit payments stated in the policy, the final payment shall be equal to the difference between a benefit payment and the initial prorated payment.

(i) As used in this section, "benefit payment" means payment of an amount equal to a loan repayment installment or a maximum amount established in the contract of insurance, whichever is less.

(j) The minimum benefit payment offered may not be less than the amount of a loan repayment installment unless the borrower or borrowers have two or more sources of income. If the maximum benefit payment offered is less than the amount of a loan repayment installment, the borrower shall also be offered coverage in which the maximum benefit payment is equal to the amount of a loan repayment installment.

This section does not apply to any loan of a bona fide principal

amount of ten thousand dollars ($10,000) or more, or to any commercial loan of a bona fide principal amount of five thousand dollars ($5,000) or more, or to any commercial loan made to a person engaged in the business of selling goods for the purpose of financing the purchase of goods for resale, or to a duly licensed personal property broker in connection with any such loan or loans as determined in accordance with Section 22054.

SEC. 9. Section 22505 of the Financial Code is amended to read:

22505. (a) In lieu of subdivisions (b), (c), (d), (e), and (f) of Section 22458.1, with respect to open end loans a licensee may provide credit insurance with the borrower's consent, the form to be approved by the Insurance Commissioner, in an amount not in excess of the amount of the indebtedness, and with respect to credit life or disability insurance may collect from the borrower an amount established pursuant to Section 779.35 of the Insurance Code.

(b) If life insurance is provided, and if the insured borrower dies during the term of the loan contract, the insurance shall be sufficient to pay the total amount due on the loan outstanding on the date of his or her death, without any exception, reservation, or limitation.

(c) If disability insurance is provided, and if the insured borrower becomes disabled during the term of the loan contract, the insurance shall be sufficient to pay all amounts attributable to the loan balance at the time of commencement of disability which become due on the loan thereafter during the period of disability in accordance with subdivision (d) of Section 22458.2 without any exception, reservation, or limitation.

(d) If loss-of-income insurance is provided, and if the insured borrower becomes unemployed during the term of the loan contract, the insurance shall be sufficient to pay all amounts attributable to the loan balance at the time of commencement of unemployment in accordance with subdivision (d) of Section 22458.8 without any exception, reservation, or limitation.

(e) Any credit insurance as is provided shall be in force as soon as the loan is made or coverage is agreed upon, whichever is later. No credit insurance written in connection with an open end loan shall be canceled by the lender because of delinquency of the borrower in the making of the minimum payments thereon unless one or more of the payments is past due for a period of 90 days or more, and the lender shall advance to the insurer the amounts required to keep the insurance in force during that period, which amounts may be debited to the borrower's account.

This section does not apply to any open end loan of a bona fide principal amount of ten thousand dollars ($10,000) or more as determined in accordance with Section 22517.

SEC. 10. Section 22517 of the Financial Code is amended to read:

22517. (a) Any section which refers to this section or which is subject to Section 22054 does not apply to any open-end loan of the bona fide principal amount specified in the regulatory ceiling provision of that section or more or to a duly licensed personal

property broker in connection with any such loan if that provision is not used for the purpose of evading this division.

(b) In determining whether an open end loan is an open end loan of a bona fide principal amount specified in any section in this division or more and whether the regulatory ceiling provision of that section is used for the purpose of evading this division, the open end loan shall be deemed to be for that amount or more if both the following criteria are met:

(1) The line of credit is equal to or more than the specified amount.

(2) The initial advance was equal to or more than the specified amount.

(c) A subsequent advance of money of less than the specified amount pursuant to the open end loan agreement between a borrower and a licensed personal property broker shall be deemed to be a loan of a principal amount of the specified amount if the criteria of paragraphs (1) and (2) of subdivision (a) have been met, even though the actual unpaid balance after the advance or at any other time is less than the specified amount.

SEC. 11. Section 24014 is added to the Financial Code, to read:

24014. A "regulatory ceiling provision" is a statement in a section or subdivision which specifies an original bona fide principal loan amount at or above which that section or subdivision does not apply to a loan.

SEC. 12. Section 24050 of the Financial Code is amended to read:

24050. (a) This division does not apply to any person doing business under any law of this state or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, credit unions, small business investment companies, California business and industrial development corporations, or licensed pawnbrokers.

(b) This division does not apply to a broker-dealer acting pursuant to a certificate, then in effect, issued pursuant to Section 25211 of the Corporations Code.

(c) This division does not apply to a college or university making a loan for the purpose of pursuing a program or course of study leading to a degree or certificate.

SEC. 13. Section 24054 of the Financial Code is amended to read:

24054. Any section which refers to this section does not apply to any loan of the bona fide principal amount specified in the regulatory ceiling provision of that section or more if that provision is not used for the purpose of evading this division. In determining under Section 24053, 24053.1, 24451, or 24451.1, or any section which refers to this section whether a loan is a loan of a bona fide principal amount of the amount specified in that section or more and whether the regulatory ceiling provision of that section is used for the purpose of evading this division, the following principles apply:

(a) If a borrower applies for a loan in a principal amount of less than the specified amount and a loan to that borrower of a principal

amount of the specified amount or more is made by a licensed consumer finance lender, no adequate economic reason for the increase in the size of the loan exists, and by prearrangement or understanding between the borrower and the licensee a substantial payment is to be made upon the loan with the effect of reducing the principal amount of the loan to less than the specified amount within a short time after the making of the loan other than by reason of a requirement that the loan be paid in substantially equal periodical installments, then the loan shall not be deemed to be a loan of the bona fide principal amount of the specified amount or more and the regulatory ceiling provisions shall be deemed to be used for the purpose of evading this division unless the loan complies with the other provisions of the section which includes the regulatory ceiling provisions.

(b) If a loan made by a licensed consumer finance lender is in a principal amount of the specified amount or more, the fact that the transaction is in the form of a sale of accounts, chattel paper, contract rights, goods, or instruments, or a lease of goods, or in the form of an advance on the purchase price of any of the foregoing, shall not be deemed to affect the loan or the bona fides of the amount thereof or to indicate that the regulatory ceiling provisions are used for the purpose of evading this division.

SEC. 14. Section 24458 of the Financial Code is amended to read:

24458. Insurance on tangible personal or real property offered as security shall not be deemed to be a collateral sale, purchase, or agreement within the terms of Section 24004, 24456 or 24457, when all of the following are met:

(a) The insurance is sold at standard rates through licensed insurance brokers or agents.

(b) The policy is written to cover the property offered as security for a loan.

(c) The property is reasonably insured against loss for a reasonable term, which may be up to the term of the loan.

(d) The policy relating to personal property is made payable to the borrower or any member of his or her family even though the customary mortgagee clause is attached or the mortgagee is a coassured.

(e) Except in the case of purchase money encumbrances the amount of title insurance shall not exceed the principal amount of the loan which is secured by a deed of trust, mortgage, or lien on the real property which is the subject of the policy of title insurance.

(f) The policy of title insurance insures the lender or is made payable jointly to the lender and the borrower as their interests may appear.

(g) Title insurance is placed through a title insurance company, duly authorized to do business in the state in which the real property is located, at rates comparable to rates being used by other title insurance companies duly authorized to do business in that state.

(h) Title insurance is placed in connection with the renewal or

extension of a loan only when the additional cash advance is at least one thousand dollars ($1,000).

This section does not apply to any loan of a bona fide principal amount of ten thousand dollars ($10,000) or more, or to a duly licensed consumer finance lender in connection with any such loan or loans as determined in accordance with Section 24054.

SEC. 15. Section 24458.1 of the Financial Code is amended to read:

24458.1. (a) Credit insurance shall not be deemed to be a collateral sale, purchase, or agreement within the terms of Section 24004, 24456, or 24457 when the insurance is provided in accordance with the provisions of the Insurance Code and this section.

As used in this division:

(1) "Credit insurance" means credit life, disability, and loss-of-income insurance, or any combination of these coverages.

(2) "Credit life insurance" and "credit disability insurance" have the same meanings as defined in Section 779.2 of the Insurance Code.

(3) "Credit loss-of-income insurance" means insurance issued to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is involuntarily unemployed, as defined in the policy.

(b) A licensee may provide credit insurance with the borrower's consent, the form to be approved by the Insurance Commissioner, and a copy, together with evidence of its approval by the Insurance Commissioner, to be filed with the commissioner, and in an amount not in excess of the amount of the indebtedness, and, with respect to credit life or disability insurance, may collect from the borrower an amount not in excess of that permitted by subdivision (h).

(c) If the loan is prepaid in full by cash, a new loan, refinancing or otherwise (except by that insurance) before the final installment date, the borrower shall receive a rebate of that amount computed in accordance with the formula approved by the Insurance Commissioner pursuant to Section 779.14 of the Insurance Code.

(d) When charges for the loan are precomputed in accordance with Section 24480, any permitted deferment charge may be computed on the combined total of the precomputed charge and the credit insurance charge. Only one deferment charge may be collected in connection with any loan contract irrespective of the number of borrowers, and only one borrower need be insured. The amount of the deferment charge may be deducted from the principal of the loan.

(e) If life or disability insurance is provided, and if the insured borrower dies or becomes disabled during the term of the loan contract, the insurance shall be sufficient to pay the total amount due on the loan (excluding unearned charges) outstanding on the date of death, or all amounts which become due on the loan thereafter during the period of disability, as the case may be, without any exception, reservation, or limitation, subject, however, to the provisions of Section 24458.2.

(f) Any credit insurance provided shall be in force as soon as the loan is made. A licensee shall not require credit insurance as a condition of making a loan.

(g) If a borrower procures credit insurance by or through a licensee, the statement required by Section 24473 shall disclose the cost thereof to the borrower, and the licensee shall deliver or cause to be delivered to the borrower a copy of the policy, certificate, or other evidence thereof, within a reasonable time. In the event a licensee provides credit disability or loss-of-income insurance pursuant to this division, the licensee shall also deliver an understandable written statement to the borrower detailing the conditions when the borrower will be entitled to make a claim under the insurance policy and the procedure to be followed in making the claim. This statement shall be first approved by the Insurance Commissioner.

(h) The amount charged to the borrower for credit life or disability insurance shall not exceed in the case of credit life insurance fifty cents ($0.50) per year per one hundred dollars ($100) of indebtedness (and in the same proportion for longer or shorter maturities and larger or smaller amounts) or the amount established by or pursuant to Section 779.35 of the Insurance Code, whichever is less, or, in the case of credit disability insurance, the amount established by or pursuant to Section 779.35 of the Insurance Code.

(i) Nothing in this article shall prevent a licensee from selling insurance as other business when authorized pursuant to Section 24404.

This section does not apply to any loan of a bona fide principal amount of ten thousand dollars ($10,000) or more, or to a duly licensed consumer finance lender in connection with any such loan or loans as determined in accordance with Section 24054.

SEC. 16. Section 24458.8 is added to the Financial Code, to read:

24458.8. If credit loss-of-income insurance is provided pursuant to this division, it shall be subject to the following conditions:

(a) The insurance shall provide indemnity in accordance with the terms of the policy after any single period of continuous unemployment of 45 days or less as determined by the policy, after which benefits shall commence. The insurance may be offered with retroactive coverage to an earlier date based upon unemployment having continued for the period stated in the policy.

(b) The statement required by Section 24473 shall include disclosure of the term of the coverage, the conditions of coverage, the benefits to be paid, and the exclusions from coverage.

(c) The borrower shall sign a certificate of voluntary acceptance of any credit loss-of-income insurance purchased. The certificate shall state in boldface type which is larger than the type used in the loan contract that purchase of the insurance is not a necessary condition to receiving the loan and that the insurance may be canceled by the borrower at any time within 15 days after it goes into effect in which event a full refund shall be made of the premium

paid.

(d) The minimum benefit shall be payment up to the agreed amount on not less than four benefit payments, as stated in the policy, which accrue during a covered period of unemployment, except that during the first 60 days after inception of the policy, the minimum benefit may be payment up to the agreed amount of one-half the number of benefit payments, as stated in the policy, which accrue during a covered period of unemployment. The maximum benefits shall be established in the contract of insurance.

(e) If combination credit disability and credit loss-of-income coverage is offered, credit disability and credit loss-of-income coverage shall also be offered separately.

(f) Benefits may not be denied because the insured cannot establish a valid claim for unemployment compensation benefits under Part 1 (commencing with Section 100) of Division 1 of the Unemployment Insurance Code solely because the former employer was not required to contribute to the State Unemployment Fund.

(g) If insurance with retroactive coverage is provided, the coverage shall provide for a prorated payment based upon the fraction of the month during which the insured is unemployed, provided that the insured is continuously unemployed during the waiting period set forth in the policy. If insurance without retroactive coverage is provided, the coverage shall provide for a prorated payment based upon the fraction of the month during which the insured is unemployed, after first excluding the elimination period set forth in the policy. For the purpose of this subdivision, a month is any period of 30 consecutive days.

(h) When unemployment continues for a number of months equal to or greater than the maximum number of benefit payments stated in the policy, the final payment shall be equal to the difference between a benefit payment and the initial prorated payment.

(i) As used in this section, "benefit payment" means payment of an amount equal to a loan repayment installment or a maximum amount established in the contract of insurance, whichever is less.

(j) The minimum benefit payment offered may not be less than the amount of a loan repayment installment unless the borrower or borrowers have two or more sources of income. If the maximum benefit payment offered is less than the amount of a loan repayment installment, the borrower shall also be offered coverage in which the maximum benefit payment is equal to the amount of a loan repayment installment.

This section does not apply to any loan of a bona fide principal amount of ten thousand dollars ($10,000) or more, or to a duly licensed consumer finance lender in connection with any such loan or loans as determined in accordance with Section 24054.

SEC. 17. Section 24505 of the Financial Code is amended to read:

24505. (a) In lieu of subdivisions (b), (c), (d), (e), and (f) of Section 24458.1, with respect to open end loans a licensee may provide credit insurance with the borrower's consent, the form to be

approved by the Insurance Commissioner, in an amount not in excess of the amount of the indebtedness, and with respect to credit life or disability insurance may collect from the borrower an amount established pursuant to Section 779.35 of the Insurance Code.

(b) If life insurance is provided, and if the insured borrower dies during the term of the loan contract, the insurance shall be sufficient to pay the total amount due on the loan outstanding on the date of his or her death, without any exception, reservation, or limitation.

(c) If disability insurance is provided, and if the insured borrower becomes disabled during the term of the loan contract, the insurance shall be sufficient to pay all amounts attributable to the loan balance at the time of commencement of disability which become due on the loan thereafter during the period of disability in accordance with subdivision (d) of Section 24458.2 without any exception, reservation, or limitation.

(d) If loss-of-income insurance is provided, and if the insured borrower becomes unemployed during the term of the loan contract, the insurance shall be sufficient to pay all amounts attributable to the loan balance at the time of commencement of unemployment in accordance with subdivision (d) of Section 24458.8 without any exception, reservation, or limitation.

(e) Any credit insurance as is provided shall be in force as soon as the loan is made or coverage is agreed upon, whichever is later. No credit insurance written in connection with an open end loan shall be canceled by the lender because of delinquency of the borrower in the making of the minimum payments thereon unless one or more of the payments is past due for a period of 90 days or more, and the lender shall advance to the insurer the amounts required to keep the insurance in force during that period, which amounts may be debited to the borrower's account.

This section does not apply to any open end loan of a bona fide principal amount of ten thousand dollars ($10,000) or more as determined in accordance with Section 24517.

SEC. 18. Section 24517 of the Financial Code is amended to read:

24517. (a) A section which refers to this section or which is subject to Section 24054 does not apply to any open-end loan of the bona fide principal amount specified in the regulatory ceiling provision of that section or more or to a duly licensed consumer finance lender in connection with any such loan if that provision is not used for the purpose of evading this division.

(b) In determining whether an open end loan is an open end loan of a bona fide principal amount specified in any section in this division or more and whether the regulatory ceiling provision of that section is used for the purpose of evading this division, the open end loan shall be deemed to be for that amount or more if both the following criteria are met:

(1) The line of credit is equal to or more than the specified amount.

(2) The initial advance was equal to or more than the specified

amount.

(c) A subsequent advance of money of less than the specified amount pursuant to the open end loan agreement between a borrower and a licensed consumer finance lender shall be deemed to be a loan of a principal amount of the specified amount if the criteria of paragraphs (1) and (2) of subdivision (a) have been met, even though the actual unpaid balance after the advance or at any other time is less than the specified amount.

CHAPTER 1315

An act to repeal and add Section 21263.2 of the Government Code, relating to the Public Employees' Retirement System, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987.]

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

SECTION 1. Section 21263.2 of the Government Code is repealed.

SEC. 2. Section 21263.2 is added to the Government Code, to read:

21263.2. (a) An eligible survivor of a state safety member who retired prior to April 1, 1973, and died prior to the effective date of this section shall receive a monthly survivor's allowance, derived solely from employer contributions and not from any contributions from the member, equal to 50 percent of the amount of the member's retirement allowance payable to the member at the time of his or her death. The member's monthly allowance shall have been based on his or her credited service.

(b) The benefit provided by this section shall not be offset by any entitlement of the survivor under the federal system.

(c) The benefit is payable to the surviving spouse for life.

(d) If there is no surviving spouse of the retired member, or upon the death of a surviving spouse, the benefit authorized by this section shall be paid to an eligible child or to eligible children.

(e) If, at the time of the death of the retired member there is no surviving spouse or eligible child or children, the benefit authorized by this section shall be paid to the parent or parents of the deceased member who were dependent upon the member for support.

(f) If, at the effective date of his or her retirement, the member was unmarried, or if, at the time of his or her death, the member had no eligible child or children, had no dependent parent or parents, and had elected an optional settlement, no survivor's allowance authorized by this section shall vest in or be paid to any individual.

(g) "Surviving spouse," for purposes of this section, means a

husband or wife who was married to the member for a period of time beginning one year or more prior to his or her retirement and continuing without interruption until the death of the member.

(h) "Eligible child," for purposes of this section, means an unmarried child of the deceased member who (1) has not attained age 18, or (2) is over age 18 but disabled due to a condition that existed and disabled the child prior to his or her 18th birthday and which has continuously disabled the person after having reached age 18. Eligibility of the child for the benefits of this provision shall terminate upon the earlier of the following:

(1) Attainment of age 18, unless the disability exemption applies.

(2) Marriage of the child prior to age 18.

(3) Cessation of a child's disability.

(4) Death of a child.

(i) The allowance paid pursuant to this section shall be adjusted to reflect a one-half continuance allowance with no offset by reason of participation in the federal system. The adjustment provided by this section shall be applied to any survivor receiving a continuance allowance on the effective date of this section.

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

In order that an inadvertent inequity in the survivors' continuance benefits of former state safety members who retired prior to April 1, 1973, which resulted from complicated effects of the repeal, effective January 1, 1986, of certain provisions of the Public Employees' Retirement Law offsetting benefits for certain Social Security benefits, may be rectified at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1316

An act to amend Sections 199.57 and 199.59 of, and to add Section 26679.5 to, the Health and Safety Code, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987]

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

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

(a) Over the past five years, AIDS has reached an epidemic state. It is estimated that 50,000 Californians will be diagnosed with AIDS by the end of 1991.

(b) AIDS appears to be universally fatal, and estimates of the percentage of those infected with the AIDS virus who will actually develop AIDS are continually being revised upwards.

(c) It is estimated by the National Academy of Sciences that as many as 1.5 million Americans have already been infected with the AIDS virus. If infection rates follow the pattern of diagnosed AIDS cases, over 300,000 Californians are presently infected.

(d) The estimated costs of medical care alone for the 9,000 AIDS cases that have occurred to date in California totals approximately two hundred twenty-five million dollars ($225,000,000), of which approximately thirty million dollars ($30,000,000) has been paid by the Medi-Cal program. By the end of 1991, medical care for AIDS patients in California is projected to approach two billion five hundred million dollars ($2,500,000,000) and the total public health and medical care expenditures are expected to exceed five billion dollars ($5,000,000,000).

(e) To date, the costs of caring for people with AIDS related complex (ARC) have not been officially calculated. However, it is safe to assume the costs will be substantial over time. The illnesses of ARC patients, although they may not be fatal, may be quite severe. For example, the virus may invade the brain, sometimes rendering patients incapable of caring for themselves. It is, therefore, plausible that a percentage of ARC patients will need to be institutionalized.

(f) Eighty-eight percent of the state's AIDS cases have occurred in persons between the ages of 20 and 49. In addition to direct medical costs, the state will bear the loss of the productivity and potential contributions of those who develop AIDS.

SEC. 2. The Legislature finds and declares all of the following:

(a) California has a strong interest in facilitating and expediting the clinical testing of AIDS drugs. At the same time, California has an interest in ensuring that such testing is performed only under carefully considered, developed, and recognized medical protocols.

(b) The State Department of Health Services already has the authority to approve new drug applications pursuant to Section 26670 of the Health and Safety Code and to permit investigational use of new drugs by qualified investigators pursuant to Section 26674 of the Health and Safety Code where the drug is manufactured and used only within the state.

(c) To facilitate and expedite the development of AIDS drugs, California manufacturers who are developing AIDS drugs should be offered the alternative of applying to the State Department of Health Services for permission to conduct clinical trials and for approval of new drug applications.

(d) The Department of Health Services has adopted the regulations of the federal Food and Drug Administration (FDA) to implement Sections 26670 to 26680, inclusive, of the Health and Safety Code. As much as possible, the protocols for investigating new drugs under Section 26679 of the Health and Safety Code shall be similar to those approved by the FDA, so that the data acquired in

such investigations may also be submitted to the FDA under Section 505(i) of the federal Food and Drug Act (21 U.S.C. Sec. 355(i)).

(e) It is the intent of the Legislature that the procedures in Sections 26670 to 26680, inclusive, of the Health and Safety Code be utilized to supplement federal procedures to the maximum extent possible under federal law to facilitate the development and testing of AIDS-related drugs and that they be utilized, to the extent feasible, in cooperation with the FDA.

SEC. 3. Section 199.57 of the Health and Safety Code is amended to read:

199.57. (a) There is hereby created the AIDS Vaccine Research and Development Advisory Committee within the State Department of Health Services which shall review and make recommendations to the state department regarding the award of the AIDS vaccine research and development grants. In accordance with Section 26679.5, the committee may also review requests for approvals for AIDS-related drugs pursuant to Section 26670, or for exemptions from these approval requirements pursuant to Section 26679. The membership of the committee shall be appointed by the State Director of Health Services within 30 days of the effective date of this chapter. The chairman of the committee shall be the State Director of Health Services, or his or her designee.

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

(1) The State Director of Health Services, or his or her designee.

(2) An expert in infectious disease and vaccine development to be appointed by the state department.

(3) The chief physician involved in the treatment of AIDS patients at San Francisco General Hospital, or his or her designee.

(4) The Chief of the Office of AIDS within the State Department of Health Services, or his or her designee.

(5) An expert in retroviruses/AIDS virus research to be appointed by the state department.

(c) Members of the committee 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.

SEC. 4. Section 199.59 of the Health and Safety Code is amended to read:

199.59. (a) The recipients of the grants shall use the moneys of the grant to develop an AIDS vaccine until the Federal Food and Drug Administration (FDA) approves the clinical testing of an AIDS vaccine on humans. Any grant funds not encumbered or expended at the time of the FDA approval of the clinical testing of an AIDS vaccine on humans shall not be used by the recipients until the state department authorizes further expenditure or requires the funds to be returned to the AIDS Vaccine Research and Development Grant Fund pursuant to subdivision (b).

(b) If an AIDS vaccine which has received FDA approval for

clinical testing on humans has been developed by a grant recipient pursuant to this chapter, then any funds which have been granted to, but not expended or encumbered by, the grant recipient shall be expended for the clinical testing of the vaccine on humans in accordance with the FDA protocol.

With respect to the other grant recipients, or when none of the recipients have received the FDA approval for the vaccine they are developing, the committee shall meet to consider whether the grant recipient has a good chance of developing a vaccine which will receive FDA approval for clinical testing on humans and shall make recommendations to the state department. If the state department, taking into consideration the committee's recommendations, determines that the grant recipient has a good chance of developing an FDA approved vaccine, it shall inform the grant recipient in writing to continue expending its grant funds for the development of an AIDS vaccine.

If the state department, taking into consideration the committee's recommendations, determines that the grant recipient does not have a good chance of developing a vaccine which will receive FDA approval for clinical testing on humans, it shall inform the recipient in writing that the funds not encumbered or expended, as described in subdivision (a), shall be returned to the state department for deposit in the AIDS Vaccine Research and Development Grant Fund.

Any funds remaining in the AIDS Vaccine Research and Development Grant Fund after the state department's determinations pursuant to this subdivision, shall, in the state department's discretion, either be expended for (1) further support of the clinical trials of a vaccine developed in whole or in part by a grant recipient or for (2) further research and development of a vaccine by a grant recipient who has been permitted, in accordance with this subdivision, to continue expending grant funds for development of a vaccine, or be expended for (3) both purposes. If no grant recipient is conducting clinical trials or developing a vaccine pursuant to this subdivision, then the moneys in the AIDS Vaccine Research and Development Grant Fund shall revert to the General Fund.

(c) Notwithstanding any other provision of this section, the state department may make grants to applicants even after approval has been given by the federal Food and Drug Administration to conduct clinical testing of an AIDS vaccine on humans.

SEC. 5. Section 26679.5 is added to the Health and Safety Code, to read:

26679.5. (a) In making determinations on requests for approval of AIDS-related drugs, as defined in subdivision (b), in accordance with Section 26670, or for exemptions from these requirements, for purposes of investigations of these drugs, pursuant to Section 26679, the department shall employ persons to conduct reviews of requests for drug marketing approval for AIDS-related drugs, or exemptions

from the approval requirements as specified in that section.

Where necessary, the department shall enter into contracts with appropriate and qualified persons or entities for the review of these requests, including persons with significant experience in conducting or reviewing clinical trials of drugs or physicians with significant experience in treating AIDS patients, or the AIDS Vaccine Research and Development Committee or any member thereof.

No person may contract with the department for the review of a request under this subdivision if the person has a financial interest or a conflict of interest involving the drug being evaluated.

(b) "AIDS-related drug" means either of the following:

(1) A vaccine to protect against human immunodeficiency virus (HIV) infection.

(2) Antiviral agent, immune modulator, or other agent to be administered to persons who have been infected with HIV, to counteract the effects of this infection, or any drug to treat opportunistic infections associated with AIDS.

(c) The department, not later than July 1, 1988, and annually thereafter, shall report to the Legislature on the activities conducted pursuant to this section.

(d) The immunities provided for in Sections 818.4 and 821.6 of the Government Code shall apply whenever the department grants approval pursuant to Section 26670 or an exemption from the approval requirements pursuant to Section 26679, for an AIDS-related drug.

SEC. 6. There is hereby reappropriated, from funds appropriated to the State Department of Health Services from the AIDS Vaccine Research and Development Grant Fund pursuant to Section 2 of Chapter 1462 of the Statutes of 1986, to the State Department of Health Services the sum of five hundred thousand dollars ($500,000) in order to implement Section 26679.5 of the Health and Safety Code, as contained in Section 5 of this act.

SEC. 7. It is the intent of the Legislature that any manufacturer or investigator who receives approval from the State Department of Health Services to investigate an AIDS-related drug, as defined in Section 26679.5 of the Health and Safety Code, as contained in Section 5 of this act, may be eligible to receive grants under AB 563 and AB 603, if both of these bills are enacted during the 1987–88 Regular Session.

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 protect the California population from the rapidly spreading AIDS epidemic and to protect the substantial numbers of persons already infected by the virus from death, it is necessary for this act to take effect immediately.

CHAPTER 1317

An act to add and repeal Section 25297.1 of the Health and Safety Code, relating to hazardous substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 25297.1 is added to the Health and Safety Code, to read:

25297.1. (a) In addition to the authority granted to the board pursuant to Division 7 (commencing with Section 13000) of the Water Code and to the department pursuant to Chapter 6.8 (commencing with Section 25300), the board, in cooperation with the department, shall develop and implement a pilot program for the abatement of, and oversight of the abatement of, unauthorized releases of hazardous substances from underground storage tanks by local agencies. The board shall select local agencies for participation in the program from among those local agencies which apply to the board, giving first priority to those local agencies which have demonstrated prior experience in cleanup, abatement, or other actions necessary to remedy the effects of unauthorized releases of hazardous substances from underground storage tanks. The board shall select only those local agencies which have implemented this chapter and which have begun to collect and transmit to the board the surcharge or fees pursuant to subdivision (b) of Section 25287. The department shall make available funding to the board for purposes of this section pursuant to the Budget Act of 1987 (Chapter 135 of the Statutes of 1987). The department shall develop and make available to the board a standard contract form which conforms to the requirements of Chapter 6.8 (commencing with Section 25300) for use by the board in entering into agreements with, and making disbursements to, local agencies under this section.

(b) In implementing the pilot program described in subdivision (a), the board or a regional board may enter into an agreement with any local agency to perform, or cause to be performed, any cleanup, abatement, or other action necessary to remedy the effects of a release of hazardous substances from an underground storage tank with respect to which the local agency has enforcement authority pursuant to this section. The board shall not enter into an agreement with a local agency for soil contamination cleanup or for groundwater contamination cleanup unless the board determines that the local agency has a demonstrated capability to oversee or perform the cleanup. The implementation of the cleanup, abatement, or other action shall be consistent with procedures adopted by the board pursuant to subdivision (d) and shall be based

upon cleanup standards specified by the board or regional board.

Any local agency which performs, or causes to be performed, any cleanup, abatement, or other action necessary to remedy the effects of a release of hazardous substances from an underground storage tank is immune from liability for this action to the same extent as the board or regional board is immune if the board or regional board had performed the cleanup, abatement, or other action.

(c) The board or regional board shall provide funding to a local agency which enters into an agreement pursuant to subdivision (b) for the reasonable costs incurred by the local agency in overseeing any cleanup, abatement, or other action taken by a responsible party to remedy the effects of unauthorized releases from underground storage tanks.

(d) The board shall adopt administrative and technical procedures, as part of the state policy for water quality control adopted pursuant to Section 13140 of the Water Code, for cleanup and abatement actions taken pursuant to this section. The procedures shall include, but not be limited to, all of the following:

(1) Guidelines as to which sites may be assigned to the local agency.

(2) The content of the agreements which may be entered into by the state board or the regional board and the local agency.

(3) Procedures by which a responsible party may petition the board for review, pursuant to Article 2 (commencing with Section 13320) of Chapter 5 of Division 7 of the Water Code, actions or decisions of the local agency in implementing the cleanup, abatement, or other action.

(4) Protocols for assessing and recovering money from responsible parties for any reasonable and necessary costs incurred by the board, regional board, or local agency in implementing this section.

(5) Quantifiable measures to evaluate the outcome of a pilot program established pursuant to this section.

(e) Any agreement between the board or regional board and a local agency to carry out a pilot program pursuant to this section shall require both of the following:

(1) The local agency shall establish and maintain accurate accounting records of all costs it incurs pursuant to this section and shall periodically make these records available to the board.

(2) The board and the department shall make reasonable efforts to recover costs incurred pursuant to this section from responsible parties, and may pursue any available legal remedy for this purpose.

(f) The board shall develop a system for maintaining a data base for tracking expenditures of funds pursuant to this section, and shall make this data available to the Legislature upon request.

(g) It is the intent of the Legislature that the cost of implementing the pilot program established by this section, including the board's administrative costs, shall not exceed seven million five hundred thousand dollars ($7,500,000) per year, which shall be appropriated

in the annual Budget Act.

(h) 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. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to assure the expeditious cleanup of the estimated 32,000 leaking underground storage tanks located in the state, it is necessary for this act to take effect immediately.

CHAPTER 1318

An act to amend Sections 84044 and 84810 of the Education Code, relating to community colleges, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1987. Filed with Secretary of State September 28, 1987.]

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

SECTION 1. Section 84044 of the Education Code is amended to read:

84044. If the chancellor determines that the district's plans prepared and adopted pursuant to Section 84043 are inadequate to solve the financial problems, or if the district fails to implement the plans, the chancellor shall have the authority to take any of the following actions:

(a) Conduct a comprehensive management review of the district and its educational programs and an audit of the financial condition of the district.

(b) Contract for, or request another appropriate agency to conduct, the reviews and audit described in subdivision (a).

(c) Authorize the district, at the expense of the district, to contract for the reviews and audit described in subdivision (a). The terms and conditions of the contract and the final selection of a contractor shall be subject to the written approval of the chancellor.

(d) Direct the district, with the assistance of the county office of education, to amend and readopt the fiscal and educational plans prepared pursuant to Section 84043 based on the findings of the comprehensive audits.

(e) Review and monitor the implementation of the plans.

(f) Propose any modifications to the fiscal and educational plans he or she deems necessary for the district's achievement of fiscal stability.

(g) If the district fails to adequately implement the readopted fiscal and educational plans, or any proposed modifications thereto, pursuant to this section, appoint, after consultation with the county superintendent of schools, a monitor at district expense for the period of time necessary to achieve the goals of the plans. The chancellor shall determine the duties of the monitor.

(h) The chancellor may transfer the funds necessary to pay all costs incurred in performing the services pursuant to subdivisions (a), (b), and (g) to the support budget of the office of the chancellor from funding that would otherwise have been apportioned to the community college district under Section B of the State School Fund.

SEC. 2. Section 84810 of the Education Code is amended to read:

84810. (a) Notwithstanding clause (2) in Section 84500.1, commencing with the 1986–87 fiscal year, and for each fiscal year thereafter, the governing board of a community college district that provides classes for inmates of any city, county, or city and county jail, road camp, or farm for adults, may include the units of average daily attendance generated in those classes and computed pursuant to Section 84520, for purposes of state apportionments. However, apportionments for this average daily attendance, whether generated in credit or noncredit courses, shall be limited to the lesser of either the district's actual current expenses for providing those classes or the noncredit apportionment rate calculated pursuant to Sections 84702.5 and 84704.

(b) Any courses conducted under this section shall conform to the criteria and standards adopted by the Board of Governors of the California Community Colleges under Section 71027, and shall be submitted to the Board of Governors for approval.

(c) Commencing on September 15, 1987, and annually thereafter, the chancellor shall report to the Department of Finance and the Joint Legislative Budget Committee on the extent that courses are offered under this section. The report shall include for each district receiving state apportionments in the preceding fiscal year for courses offered under this section:

(1) The name of the district.

(2) The name of the jail or other detention facility in which each course was conducted.

(3) The title of each course conducted.

(4) The headcount enrollment for each course.

(5) The credit and noncredit average daily attendance generated by each course.

(6) The cost of providing the courses reported by the district pursuant to subdivision (a).

(7) The actual apportionment revenue or reimbursement received by the district pursuant to subdivision (a).

SEC. 3. Using funds appropriated by this act, the Board of Governors of the California Community Colleges shall continue the development of a new funding mechanism for determining the allocation of state general apportionments for community colleges,

the commencement of which development is described in Section 2 of Chapter 1465 of the Statutes of 1986. The work of the board of governors in this respect shall be based upon the report of the task force on community college financing reform, as submitted pursuant to that section.

SEC. 4. The sum of seventy-five thousand dollars ($75,000) is hereby appropriated from the General Fund to the Director of Finance for allocation to the Board of Governors of the California Community Colleges for the 1987–88 fiscal year for the purposes of Section 3 of this act.

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

In order to make adjustments in current fiscal year apportionments without undue delay and ensure the efficient administration of community college funding, it is necessary that this act take effect immediately.

CHAPTER 1319

An act to amend Sections 66749, 66796.52, and 66796.67 of, to add Section 66796.22 to, to add Chapter 4 (commencing with Section 66799) to Title 7.3 of, and to repeal Sections 66792.5 and 66799.55 of, the Government Code, and to add Part 23 (commencing with Section 45001) to Division 2 of the Revenue and Taxation Code, relating to solid waste, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987.]

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

SECTION 1. Section 66749 of the Government Code is amended to read:

66749. (a) No member of the board shall participate in any board action or attempt to influence any decision or recommendation by any employee of or consultant to the board which involves himself or herself or any solid waste handler with which the member is connected as a director, officer, or employee, or in which the member has a direct personal financial interest within the meaning of Section 87100.

(b) No board member shall participate in any proceeding before any agency as a consultant or in any other capacity on behalf of any solid waste handler.

(c) Upon request of any person or on his or her own initiative the Attorney General may file a complaint in the superior court for the

county in which the board has its principal office alleging that a board member has knowingly violated this section and the facts upon which the allegation is based and asking that the member be removed from office. Further proceedings shall be in accordance as near as may be with rules governing civil actions. If after trial the court finds that the board member has knowingly violated this section it shall pronounce judgment that the member be removed from office.

SEC. 1.5. Section 66792.5 of the Government Code is repealed.

SEC. 2. Section 66796.22 is added to the Government Code, to read:

66796.22. (a) The Legislature hereby finds and declares that the long-term protection of air, water, and land from pollution due to the disposal of solid waste is best achieved by requiring financial assurances of the closure and postclosure maintenance of solid waste landfills.

(b) Any person operating a solid waste landfill, as defined in subdivision (h) of Section 66799.3, on January 1, 1988, shall do both of the following:

(1) On or before January 1, 1989, certify to the board and the enforcement agency that all of the following have been accomplished:

(A) The operator has prepared an initial estimate of closure and postclosure maintenance costs.

(B) The operator has established a trust fund or equivalent financial arrangement acceptable to the board, as specified in subdivision (e).

(C) The amounts that the operator will deposit annually in the trust fund or equivalent financial arrangement acceptable to the board will ensure adequate resources for closure and postclosure maintenance.

All documentation relating to the preparation of the closure and postclosure maintenance costs shall be retained by the operator and shall be available for inspection by the board or the enforcement agency at reasonable times.

(2) Submit to the enforcement agency a plan for the closure of the landfill and a plan for the postclosure maintenance of the landfill.

These plans shall be submitted not later than the first date after July 1, 1990, that the solid waste facility is required to be reviewed, pursuant to subdivision (d) of Section 66796.33, and shall be included in that review. If the operator intends to close the solid waste landfill within five years of the effective date of this section, or if the solid waste facility does not have sufficient permitted capacity to operate for at least five years beyond the effective date of this section, the operator shall submit the plans on or before July 1, 1990. No person shall operate a solid waste landfill more than one year after submitting to the enforcement agency and the board a plan for the closure of the landfill and a plan for the postclosure maintenance of the landfill unless both plans have been approved, or modified and

approved, by the enforcement agency and the board. The owner and operator shall, regardless of any changes occurring during the continued operation of the landfill, close and maintain the landfill during postclosure in accordance with the closure plan and the postclosure maintenance plan approved by the enforcement agency and the board pursuant to this section.

(c) The board shall adopt emergency regulations on or before July 1, 1989, specifying closure plan and postclosure maintenance plan adoption procedures and uniform closure and postclosure standards. The regulations shall also require solid waste landfill operators to calculate, and periodically revise, cost estimates for closure and postclosure maintenance for a period of not less than 30 years after closure. The board may adopt regulations that distinguish between preliminary and final closure and postclosure plans. Regulations for preliminary plans may require less specificity and engineering detail than final plans and shall apply only in those cases in which there is reasonable certainty that the solid waste facility will not close for at least one year following approval of the plans. Preliminary plans shall provide sufficient detail to enable the operator and the board to accurately estimate the costs for closure and postclosure maintenance.

(d) The regulations adopted by the board pursuant to subdivision (c) shall not duplicate or conflict with the regulations imposing the closure and postclosure maintenance requirements adopted by the State Water Resources Control Board which are found in Subchapter 15 (commencing with Section 2510) of Chapter 3 of Title 23 of the California Administrative Code.

(e) Any person operating a solid waste landfill on January 1, 1988, shall, with the closure plan and postclosure maintenance plan required to be submitted pursuant to subdivision (b), submit to the board evidence of financial ability to provide for the cost of closure and postclosure maintenance, in an amount equal to the estimated cost of closure and 15 years of postclosure maintenance, contained in the closure plan and the postclosure maintenance plan submitted pursuant to subdivision (b). The evidence of financial ability shall be in the form of a trust fund into which funds shall be deposited on an annual basis in amounts sufficient to meet closure and postclosure costs when needed, or an equivalent financial arrangement acceptable to the board, and shall be reviewed and approved by the enforcement agency and the board in conjunction with the required plans. The evidence of financial ability required of an operator shall be adjusted to equal the estimated costs of closure, and 15 years of postclosure maintenance, in the approved plans. Revisions in the plans prior to closure shall be accomplished by corresponding revisions in cost estimates and financial assurances.

(f) The board shall not require an operator of a solid waste landfill to revise or amend a closure plan submitted pursuant to this section after closure of the landfill in order to reflect subsequent changes in any standards and regulations adopted by the board.

(g) After closure, and during the postclosure maintenance period, a solid waste landfill operator shall maintain evidence of financial ability for postclosure maintenance at all times equal to the estimated cost of 15 years of postclosure maintenance, except that 15 years before the end of the postclosure maintenance period specified in a postclosure plan approved by the board and the enforcement agency, an operator may request approval of the board to provide evidence of financial ability in a lesser amount.

(h) Nothing in this title affects the authority of the State Water Resources Control Board to impose closure and postclosure maintenance requirements on solid waste landfill facilities.

SEC. 3. Section 66796.52 of the Government Code is amended to read:

66796.52. (a) Whenever an enforcement agency finds that any person is operating a solid waste facility or proposes to operate such a facility which causes or threatens to cause a condition of hazard, pollution, or nuisance constituting an emergency requiring immediate action to protect the public health, welfare, or safety, the enforcement agency may issue a cease and desist or cleanup order under this section. If the enforcement agency fails to issue the order, the board may, after notification of the enforcement agency, do so.

(b) An enforcement agency may, whenever it determines that the operation of a solid waste landfill, as defined in subdivision (h) of Section 66799.3, is causing or threatening to cause a condition of hazard, pollution, or nuisance due to the migration of methane gas or any solid or hazardous waste, require the owner or operator of the facility to take corrective action as necessary to abate a nuisance or protect human health and the environment.

SEC. 4. Section 66796.67 of the Government Code is amended to read:

66796.67. (a) Upon the request of the enforcement agency, or upon its own initiative, the board may, after notification of the enforcement agency, enforce this title. In taking any action, the board is vested, in addition to its other powers, with all the powers of the enforcement agency under this title.

(b) (1) Upon the request of the enforcement agency, or upon its own initiative, the board may, after notification of the enforcement agency require the owner or operator of a solid waste landfill, as defined in subdivision (h) of Section 66799.3, to do either or both of the following:

(A) Take corrective action as necessary to abate a nuisance or protect human health and the environment.

(B) Prepare and implement a closure plan and postclosure maintenance plan.

(2) The board may expend funds available to it from the Solid Waste Disposal Site Cleanup and Maintenance Account in the General Fund in preparing and issuing an order under this subdivision.

(c) Upon the request of the enforcement agency, or upon its own

initiative, the board may, after notification of the enforcement agency, contract for the preparation and, if necessary, the implementation of any closure plan or postclosure maintenance plan required by Section 66796.22 after issuance of an order pursuant to subdivison (b) and the failure of the owner and operator to comply on or before the date specified in the order. The board may expend funds allocated from the Solid Waste Disposal Site Cleanup and Maintenance Account in the General Fund pursuant to Section 66799.22 to carry out this subdivision.

(d) Upon the request of the enforcement agency, or upon its own initiative, the board may, after notification of the enforcement agency, contract for corrective action after the issuance of an order pursuant to subdivision (b) and failure of the owner and operator to comply on or before the date specified in the order. The board may expend funds allocated from the Solid Waste Disposal Site Cleanup and Maintenance Account in the General Fund pursuant to Section 66796.22 to carry out this subdivision.

(e) If the board expends any funds pursuant to subdivision (c) or (d), the owner and the operator of the solid waste landfill shall pay the board an amount equal to the funds which are expended plus a reasonable amount for the board's cost of contract administration together with an amount equal to the interest that would have been earned on the expended funds. The amount of any cost incurred by the board pursuant to this section shall be recoverable in a civil action by the board, or upon request of the board pursuant to Section 66748, by the Attorney General. Any amounts recovered, except amounts payable to the board for contract administration, shall be deposited in the Solid Waste Disposal Site Cleanup and Maintenance Account in the General Fund.

(f) Any contract entered into by the board, pursuant to subdivision (b), (c), or (d), is exempt from approval by the Department of General Services pursuant to Section 14780.

(g) Nothing in this title affects the authority of the State Water Resources Control Board to issue enforcement orders or take corrective actions on solid waste facilities.

SEC. 5. Chapter 4 (commencing with Section 66799) is added to Title 7.3 of the Government Code, to read:

CHAPTER 4. SOLID WASTE DISPOSAL SITE CLEANUP AND MAINTENANCE

Article 1. General Provisions and Definitions

66799. This chapter shall be known and may be cited as the Solid Waste Disposal Site Hazard Reduction Act of 1987.

66799.1. (a) The Legislature finds and declares as follows:

(1) There are approximately 1,300 closed and active solid waste landfills in California.

(2) Recent studies have indicated that there may be future

leachate and gas migration problems at California solid waste landfills.

(3) Pursuant to Chapter 1532 of the Statutes of 1984, California landfill owners and operators are responding responsibly by undertaking extensive groundwater and landfill gas emission testing programs to quantify the extent of leachate and gas migration problems in solid waste landfill facilities. The results of these tests will be submitted to the Legislature in January 1989.

(4) A state solid waste cleanup and maintenance fund should be financed through fees collected from solid waste landfill operators. In addition to providing resources to respond to potential health and environmental problems at onsite and offsite solid waste landfills, the fund should be used to support state and local landfill permit enforcement programs and to provide grants to local agencies to initiate and implement waste separation programs to prevent the disposal of household hazardous waste in solid waste landfills, and to preserve remaining solid waste disposal capacity.

(b) It is, therefore, the intent of the Legislature in enacting this chapter to provide a means for addressing and funding these urgent problems.

66799.2. Except as otherwise provided in this chapter, the definitions contained in Article 2 (commencing with Section 66710) of Chapter 1 apply to this chapter.

66799.3. As used in this chapter, the following definitions apply:

(a) "Account" means the Solid Waste Disposal Site Cleanup and Maintenance Account in the General Fund.

(b) "Closure plan" means a plan prepared by the owner or operator of a solid waste landfill to close the landfill in accordance with permit conditions and standards as may be required by a regional board, an enforcement agency, and the board.

(c) "Committee" means the Solid Waste Cleanup and Advisory Committee.

(d) "Corrective action" means any action, required or approved by an enforcement agency, or the board pursuant to Chapter 3 (commencing with Section 66795), a regional board, or an air quality management district or air pollution control district, to abate a nuisance or prevent the migration of methane gas or contaminated ground or surface water as necessary to protect human health and the environment.

(e) "Inert waste" means a nonliquid waste including, but not limited to, soil and concrete, that does not contain hazardous waste or soluble pollutants at concentrations in excess of water quality objectives established by a regional board pursuant to Division 7 (commencing with Section 13000) of the Water Code and does not contain significant quantities of decomposable waste.

(f) "Postclosure plan" means a plan prepared by the owner or operator of a solid waste landfill to maintain the landfill for at least 30 years after closure in accordance with any permit conditions and standards which may be required by a regional board, an

enforcement agency, or the board.

(g) "Regional board" means a California Regional Water Quality Control Board.

(h) "Solid waste landfill" means a solid waste disposal facility which meets the requirements of a class III landfill pursuant to Section 2533 of Title 23 of the California Administrative Code. "Solid waste landfill" does not include a facility which receives only wastes generated by the landfill owner or operator in the extraction, beneficiation, or processing of ores and minerals.

(i) "State board" means the State Board of Equalization.

Article 2. The Solid Waste Cleanup and Maintenance Advisory Committee

66799.10. The committee is hereby established within the board.

66799.11. The committee is composed of seven members as follows:

(a) The State Director of Health Services, or a designee of the director.

(b) The Chairperson of the State Water Resources Control Board, or a designee of the chairperson.

(c) The Chairperson of the State Air Resources Board, or a designee of the chairperson.

(d) The Chairperson of the California Waste Management Board, or a designee of the chairperson.

(e) A member appointed by the Senate Committee on Rules.

(f) A member appointed by the Speaker of the Assembly.

(g) A member, who shall be a county health officer, appointed by the Governor.

66799.12. All members of the committee shall serve without compensation, except the members appointed pursuant to subdivisions (e), (f), and (g) of Section 66799.11, are entitled to receive from the account per diem and reimbursement of expenses equivalent to the amount authorized for members of the California Waste Management Board pursuant to Section 66745.

66799.13. The committee shall meet at those times and places which are determined by the board. Five members of the committee constitute a quorum.

66799.14. No member of the committee shall participate in any board action involving a grant or loan guarantee which involves the member or any recipient of a grant or loan guarantee with which the member is connected as a director, officer, or employee, or in which the member otherwise has a financial interest within the meaning of Section 87100.

66799.15. The committee shall establish detailed criteria for selecting grant recipients and for making loan guarantees pursuant to this chapter and shall make recommendations to the board thereon.

66799.16. On or before January 1, 1989, the committee shall

recommend to the board specific guidelines for the adoption of regulations required by subdivision (c) of Section 66796.22. The guidelines shall specify procedures and policies necessary for the board and other state agencies with regulatory authority over the closure and postclosure maintenance of solid waste facilities to effectively coordinate their regulations to achieve compliance with all applicable requirements of state and federal law. These guidelines shall be submitted to the Governor and the Legislature on or before January 1, 1989.

Article 3. Duties and Functions of the California Waste Management Board

66799.20. The board shall administer this chapter and may exercise all powers reasonably necessary to carry out the powers and responsibilities expressly granted or imposed upon the board pursuant to this chapter.

66799.22. The board may do all of the following:

(a) Enter into loan guarantee agreements with owners or operators of solid waste landfills operating solid waste disposal facilities on or after January 1, 1988, pursuant to a solid waste facilities permit issued by the board.

(b) Enter into contracts which the board deems necessary to carry out its powers and duties pursuant to this chapter.

(c) Provide grants, pursuant to Section 66799.40, to cities or counties for local programs to help prevent the disposal of hazardous wastes at solid waste disposal sites, including, but not limited to, programs to manage household hazardous waste. These grants shall not exceed, in any one fiscal year, more than 20 percent of the total revenues deposited, or anticipated to be deposited, in the account during the same fiscal year.

(d) Fix reasonable fees and charges for loan guarantees and revise, from time-to-time, these fees and charges.

66799.23. The board shall establish criteria for selecting grant recipients and for making loan guarantees pursuant to this chapter.

66799.24. All expenses incurred by the board in carrying out this chapter are payable solely from the account. No liability or obligation is imposed upon the state pursuant to this chapter, and the board shall not incur a liability or obligation beyond the extent to which moneys are provided in the account.

66799.25. On or before March 1, the board shall submit to the Legislature an annual report of its activities for the preceding calendar year.

66799.26. The board shall adopt regulations for carrying out this chapter, including, but not limited to, regulations for the issuing of loan guarantees and grants from the account. The board shall reserve 25 percent of the total revenues deposited, or anticipated to be deposited, in the account each fiscal year for the purpose of guaranteeing loans.

66799.27. This chapter does not grant any local or state agency any power in addition to any other power which may be authorized under any other provision of law.

Article 4. Loan Guarantees

66799.30. The board may make loan guarantees to the owner and operator of a solid waste landfill to implement a corrective action. Loan guarantees approved by the board may apply to loans made by banks, savings and loan institutions, or state or federal agencies authorized to make loans or provide other forms of financial assistance for these purposes, including, but not limited to, the California Pollution Control Financing Authority.

66799.31. The board shall not make a loan guarantee pursuant to this chapter unless the board finds both of the following:

(a) That the owner and the operator of a solid waste landfill requires financial assistance to complete a corrective action.

(b) That loan guarantee funds will not be used to fund routine closure and postclosure maintenance activities that could be paid or financed out of trust funds or equivalent arrangements established pursuant to subdivision (e) of Section 66796.22.

66799.32. The board shall adopt uniform criteria for guaranteeing loans pursuant to this article. The criteria shall include a test for demonstrating financial need, ability to repay, and collateral requirements, if any. The board shall not accept as collateral any land upon which solid waste has been disposed.

66799.33. The board shall not make a loan guarantee to a solid waste landfill owner or operator who cannot demonstrate compliance, or at least a good faith attempt to comply, with applicable laws, regulations, and solid waste facilities permit requirements.

Prior to making any loan guarantee to any solid waste landfill owner or operator, the board shall also receive a determination from all state and local agencies authorized to approve the closure plan or postclosure plan, or issue the corrective action order, that the loan guarantee, if made, will further compliance with the permit, plan, or order.

66799.34. The board shall establish a method of determining priority in the allocation of loan guarantee funds available for purposes specified in Section 66799.30. The board shall base the priority for allocation of funds on all of the following factors:

(a) The financial need of the operator and owner of the solid waste landfill.

(b) The need for the loan guarantee to prevent potential hazards to public health or the environment.

(c) The increase in the cost of closure, postclosure, or corrective action which is likely to occur if the action is deferred.

(d) The record of compliance by the operator, or if applicable the owner, with solid waste landfill's solid waste facilities permit and

with corrective action orders.

66799.35. The board shall adopt procedures to be followed if there is a default in payment of a loan guaranteed pursuant to this article. The procedures may vary, depending on whether the loan guarantee was secured by real property, secured by personal property, or unsecured. The board may take legal action to secure repayments from loan guarantee recipients defaulting on loan guarantees made pursuant to this article and may call on the assistance of other state agencies in securing repayment, including, but not limited to, a levy against any tax refunds owed to the borrower by any state agency.

The repeal of this article shall not extinguish a loan guarantee obligation and shall not impair any loan security taken by the board or the authority of the state to pursue appropriate action for collection.

66799.36. Applicants for loan guarantees shall submit a nonrefundable application fee of at least one hundred dollars ($100) payable to the board, for deposit in the account, to defray the board's expenses in reviewing the application, including a check on the applicant's credit rating.

66799.37. The board shall not, on or after January 1, 1988, guarantee a loan to a person who is not the owner or operator of a solid waste disposal facility operating pursuant to a solid waste facilities permit issued by the board and accepting solid wastes.

Article 5. Grants

66799.40. The board may make grants of funds in the account to a city or county for any of the following purposes related to the safe operation, closure, and maintenance of solid waste landfills operating on or after January 1, 1988:

(a) Support for establishing collection systems to ensure that hazardous waste, including, but not limited to, household hazardous waste, is not improperly disposed of in a solid waste landfill.

(b) Payment of the local costs of waste control and enforcement programs that help prevent the disposal of hazardous wastes in solid waste landfills.

(c) If a city or county has already funded the type of program described in subdivision (a) or (b) locally, the board shall award a minimum grant of funds from the account to reimburse that city or county for the actual cost of the local program in that fiscal year or 20 percent of the fees paid or anticipated to be paid by the city or county into the account during the same fiscal year, whichever is less. This subdivision does not limit the authority of the board to award grants of funds from the account in excess of, or in addition to, the minimum grant amounts set forth in this subdivision, in accordance with the grant criteria established pursuant to Section 66799.23.

66799.41. Grants made pursuant to Section 66799.40 during a fiscal year shall equal 20 percent of the total revenues deposited or

anticipated to be deposited in the account during that fiscal year.

66799.42. Any city or county may adopt a schedule of fees to be collected from each solid waste landfill operator operating within the boundaries of the city or county. Any county may adopt a schedule of fees to be collected from each solid waste landfill operator operating within the boundaries of a city, but only with the concurrence of the governing body of the affected city. The fees shall be established in an amount sufficient to pay only those reasonable and necessary costs for the preparation, operation, maintenance, and administration of a program to ensure that hazardous waste is not improperly disposed of in a solid waste landfill.

Article 6. Inspections and Emergency Actions

66799.45. The board shall annually grant or allocate funds from the account to enforcement agencies and the regional boards, as determined necessary by the board and consistent with legislative direction, to assist in the support of solid waste landfill permit inspection and enforcement programs carried out by regional boards pursuant to Division 7 (commencing with Section 13000) of the Water Code and by enforcement agencies pursuant to Chapter 3 (commencing with Section 66795).

The board shall apportion the funds generally to reflect population, number of solid waste landfills, the scope of local enforcement responsibilities, and the weight or volume of solid waste disposed of within an enforcement agency or regional board's jurisdiction. Each enforcement agency and regional board shall expend its annual apportionment made pursuant to this section by the board exclusively for the inspection of solid waste landfills, enforcement of the solid waste landfill's solid waste facilities permits, and enforcement of waste discharge requirements by the regional water quality control boards. These funds are in addition to any other funds available for these purposes. The board shall grant or allocate funds pursuant to this section in an amount which equals, in any one fiscal year, 10 percent of the total revenues deposited, or anticipated to be deposited, in the account during the same fiscal year. The board shall distribute not less than 75 percent of the funds granted or allocated pursuant to this section to local enforcement agencies.

66799.46. (a) Upon application by a regional board or at the discretion of the board, the board may allocate funds from the account to the regional board to prepare or implement a closure plan or a postclosure maintenance plan for a solid waste landfill if the owner and the operator have failed to comply with an order issued by a regional board requiring the preparation or implementation of a closure plan or postclosure maintenance plan.

(b) Upon application by a regional board or at the discretion of the board, the board may allocate funds from the account to the regional board to take emergency corrective action if the solid waste landfill owner and operator have failed to comply with a corrective

action order issued by a regional board.

(c) If the board expends any funds pursuant to subdivision (a) or (b), the owner and operator of the solid waste landfill shall pay the board an amount equal to the funds expended plus a reasonable amount for interest and the costs of contract administration.

(d) Costs incurred by regional boards pursuant to this section shall be recoverable in a civil action by the board or, upon the request of the board pursuant to Section 66748, by the Attorney General. Any amounts recovered shall be deposited in the account.

Article 7. The Account

66799.48. The Solid Waste Disposal Site Cleanup and Maintenance Account is hereby created in the General Fund.

66799.49. (a) Every operator of a solid waste landfill required to have a solid waste facilities permit pursuant to Section 66796.30 shall, commencing January 1, 1989, pay an annual fee to the state board pursuant to Part 23 (commencing with Section 45001) of Division 2 of the Revenue and Taxation Code on all solid waste disposed at each disposal site on and after January 1, 1989. The fee shall be established by the state board and shall be based on the amount, by weight or by a volumetric equivalent, as determined by the state board, of solid waste handled at each disposal site so that total receipts of approximately twenty million dollars ($20,000,000), are collected each calendar year.

(b) Notwithstanding subdivision (a), the state board shall, as necessary, adjust the rate of the fees annually so that the balance in the account each July 1 does not exceed one hundred million dollars ($100,000,000).

(c) The state board may exempt from all fees any operator of a solid waste landfill that receives less than a monthly average of five tons per operating day of solid waste.

(d) Recycled materials and inert waste removed from the waste stream and not disposed of in a solid waste landfill shall not be included for the purpose of assessing fees imposed pursuant to subdivision (a).

66799.50. The state board shall adopt rules and regulations to carry out Section 66799.49, including, but not limited to, provisions governing collections, reporting, refunds, and appeals.

66799.51. The board may spend not more than 5 percent of total revenues deposited or anticipated to be deposited in the account during a fiscal year for administration of this chapter during that fiscal year.

66799.52. All money in the account is available to the board, upon appropriation by the Legislature, only for purposes of this chapter.

66799.53. All moneys received by the board pursuant to this chapter shall be deposited in the account. Upon repeal of this chapter, the account shall be dissolved and all moneys in the account shall be distributed to the solid waste landfill operators which have

paid annual fees to the state board during the effective life of the account. Each operator shall receive an amount based upon the proportion that operator's total fees bear to the total funds paid into the account during its effective life. Any money thereafter received in repayment of loans made pursuant to this chapter shall be distributed to operators according to the same formula. Any distributions received pursuant to this subdivision may only be used for any of the following activities related to solid waste landfills:

(a) Closure and postclosure planning and maintenance.

(b) Preventative or corrective actions to protect human health or the environment.

(c) Enforcement activities.

(d) Programs to prevent the disposal of hazardous waste in landfills.

66799.54. Except as provided in Section 66799.30, the board shall not make grants or loan guarantee advances until the unencumbered balance in the account is at least two million dollars ($2,000,000).

66799.55. (a) Any operator of a solid waste disposal facility that pays a fee pursuant to this article, may impose, as necessary, on its users an administrative fee of not more than 5 percent of the fees collected by the state board in the previous year.

(b) Administrative fees imposed pursuant to subdivision (a) shall reflect the actual costs of collecting and accounting for fees paid to the state board.

(c) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 6. Part 23 (commencing with Section 45001) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 23. SOLID WASTE DISPOSAL SITE CLEANUP AND MAINTENANCE FEE LAW

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

45001. This part shall be known and may be cited as the Solid Waste Disposal Site Cleanup and Maintenance Fee Law.

45002. The collection and administration of the fee referred to in Section 45051 shall be governed by the definitions contained in Chapter 4 (commencing with Section 66799) of Title 7.3 of the Government Code, unless expressly superseded by the definitions contained in this part.

45003. Except where the context otherwise requires, the definitions contained in this chapter shall govern the construction of this part.

45004. The provisions of this part, insofar as they are substantially the same as existing provisions of law relating to the same subject matter, shall be construed as restatements and continuations and not as new enactments.

45005. Any action or proceeding commenced before this part takes effect, or any right accrued, is not affected by this part, but all procedures taken shall conform to this part as far as possible.

45006. "Person" includes any individual, firm, cooperative organization, fraternal organization, corporation, estate, trust, business trust receiver, trustee, syndicate, this state, any county, city and county, municipality, district, public agency, or subdivision of this state or any other group or combination acting as a unit.

45007. "Board" means the State Board of Equalization.

45008. "In this state" means within the exterior limits of the State of California and includes all territory within those limits owned by or ceded to the United States of America.

45009. "Fee payer" means any person liable for the payment of a fee imposed by Section 66799.49 of the Government Code.

CHAPTER 2. THE CLEANUP AND MAINTENANCE FEE

Article 1. Imposition of Fee

45051. The fee imposed pursuant to Section 66799.49 of the Government Code shall be administered and collected by the board in accordance with this part.

Article 2. Registration and Security

45101. Every person who operates a solid waste landfill required to have a solid waste facilities permit pursuant to Section 66796.30 of the Government Code shall register with the board.

45102. The board, whenever it deems it necessary to ensure compliance with this part, may require any person subject to this part to place with it any security that the board determines to be reasonable, taking into account the circumstances of that person. The board may sell the security at public auction if it becomes necessary to do so in order to recover any fee or any amount required to be collected, including any interest or penalty due. Notice of the sale shall be served upon the person who placed the security personally or by mail.

If service is made by mail, the notice shall be addressed to the person at his or her address as it appears in the records of the board. Service shall be made at least 30 days prior to the sale in the case of personal service, and at least 40 days prior to the sale in the case of service by mail. Security in the form of a bearer bond issued by the United States or the State of California which has a prevailing market price may, however, be sold by the board at private sale at a price not lower than the prevailing market price thereof. Upon any sale, any surplus above the amounts due shall be returned to the person who placed the security.

CHAPTER 3. DETERMINATIONS

Article 1. Reports and Payments

45151. The fee collected and administered under Section 45051 is due and payable to the board annually on or before July 1 of each year. Each fee payer, on or before March 1 of each year, shall prepare a report for the preceding calendar year, in the form prescribed by the board, showing the information required to be reported by Section 66799.49 of the Government Code and any other information that the board deems necessary to carry out this part.

The fee payer shall deliver the report to the office of the board on or before March 1 of each year. The fee payer shall deliver a remittance of the amount of tax assessed pursuant to Section 66799.49 of the Government Code to the office of the board on or before the following July 1.

45152. The board for good cause may extend, for not to exceed one month, the time for making any report or paying any amount required to be paid under this part. The extension may be granted at any time if a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any person to whom an extension is granted shall pay, in addition to the fee, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5 from the date on which the fee would have been due without the extension until the date of payment.

45153. If the fee is not paid to the board within the time prescribed for the payment of the fee, a penalty of 10 percent of the amount of the fee shall be added thereto on account of the delinquency.

45154. All fees not paid on the date when due and payable shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from that date until paid.

45155. If the board finds that a person's failure to make a timely report 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 Section 45153.

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.

Article 2. Deficiency Determinations

45201. (a) If the board is dissatisfied with the report filed or the amount of fee paid to the state by any fee payer, or if no report has been filed or no payment or payments of the fees have been made to the state by a fee payer, the board may compute and determine

the amount to be paid, based upon any information available to it. One or more additional determinations may be made of the amount of fee due for one, or for more than one, period. The amount of fee so determined shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date the amount of the fee, or any portion thereof, became due and payable until the date of payment. In making a determination, the board may offset overpayments for a period or periods against underpayments for another period or periods and against the interest and penalties on the underpayments.

(b) If any part of the deficiency for which a determination of an additional amount due is made is found to have been occasioned by negligence or intentional disregard of this part or regulations adopted by the board pursuant to this part, a penalty of 10 percent of the amount of that determination shall be added, plus interest as provided in subdivision (a).

(c) If any part of the deficiency for which a determination of an additional amount due is made is found to be occasioned by fraud or an intent to evade this part or authorized regulations, a penalty of 25 percent of the amount of the determination shall be added, plus interest as provided in subdivision (a).

(d) The board shall give to the fee payer written notice of its determination. The notice shall be placed in a sealed envelope, with postage paid, addressed to the fee payer at his or her address as it appears in the records of the board. The giving of the notice shall be deemed complete at the time of the deposit of the notice in a United States Post Office, or a mailbox, subpost office, substation, mail chute, or other facility regularly maintained or provided by the United States Postal Service, without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served, and service shall be deemed complete at the time of delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

45202. Except in the case of fraud, intent to evade this part or rules and regulations adopted under this part, or failure to make a report, every notice of a determination of an additional amount due shall be given within three years after the date when the amount was required to have been paid. In the case of failure to make a report, the notice of determination shall be mailed within eight years after the date the amount of the fee was due.

45203. If, before the expiration of the time prescribed in Section 45202 for the mailing of a notice of deficiency determination, the fee payer has consented in writing to the mailing of the notice after that time, the notice may be mailed at any time prior to the expiration of the period agreed upon. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Article 3. Redeterminations

45301. Any person from whom an amount is determined to be due under Article 2 (commencing with Section 45201), or any person directly interested, may petition for a redetermination thereof within 30 days after service upon him or her of notice of the determination. If a petition for redetermination is not filed within the 30-day period, the amount determined to be due becomes final at the expiration thereof.

45302. Every petition for redetermination shall be in writing and shall state the specific grounds upon which the petition is founded. The petition may be amended to state additional grounds at any time prior to the date on which the board issues its order or decision on the petition for redetermination.

45303. If a petition for redetermination is filed within the 30-day period, the board shall reconsider the amount determined to be due, and, if the person has so requested in his or her petition, the board shall grant him or her an oral hearing and shall give him or her 10 days' notice of the time and place of the hearing. The board may continue the hearing from time to time as may be necessary.

45304. The board may decrease or increase the amount of the determination before it becomes final, but the amount may be increased only if a claim for the increase is asserted by the board at or before the hearing. Unless the 25 percent penalty imposed by subdivision (c) of Section 45201 applies to the amount of the determination as orginally made or as increased, the claim for increase shall be asserted within eight years after the date the amount of fee for the period for which the increase is asserted was due.

45305. The order or decision of the board upon a petition for redetermination shall become final 30 days after service upon the petitioner of notice thereof.

45306. All amounts determined to be due by the board under Article 2 (commencing with Section 45201) are due and payable at the time they become final, and, if not paid when due and payable, a penalty of 10 percent of the amount determined to be due shall be added to the amount due and payable.

45307. Any notice required by this article shall be served personally or by mail in the same manner as prescribed for service of notice by Section 43201.

Article 4. Jeopardy Determinations

45351. If the board finds and determines that the collection of any amount of fee will be jeopardized by delay, it shall thereupon make a determination of the amount of fee due, noting that fact upon the determination, and the amount of the fee shall be immediately due and payable. If the amount of the fee, interest, and penalty specified in the jeopardy determination is not paid, or a petition for

redetermination is not filed, within 10 days after the service upon the taxpayer of notice of the determination, the determination becomes final, and the delinquency penalty and interest provided in Sections 45153 and 45154 shall attach to the amount of fee specified therein.

45352. The fee payer against whom a jeopardy determination is made may file a petition for the redetermination thereof, pursuant to Article 3 (commencing with Section 45301), with the board within 10 days after the service upon the fee payer of notice of the determination, and he or she shall, within the 10-day period, deposit with the board that security which the board deems necessary to insure compliance with this part. The security may be sold by the board at public sale if it becomes necessary in order to recover any amount due under this part. Notice of the sale may be served upon the person who deposited the security personally or by mail in the same manner as prescribed for service of notice by Section 45201. After that sale, the surplus, if any, above the amount due under this part shall be returned to the person who deposited the security.

45353. In accordance with rules and regulations which the board may adopt, the person against whom a jeopardy determination is made may apply for an administrative hearing for one or more of the following purposes:

(a) To establish that the determination is excessive.

(b) To establish that the sale of property that may be seized after issuance of the jeopardy determination, or any part thereof, shall be delayed pending the administrative hearing because the sale would result in irreparable injury to the person.

(c) To request the release of all or part of the property to the person.

(d) To request a stay of collection activities.

The application shall be filed within 30 days after service of the notice of jeopardy determination and shall be in writing and state the specific factual and legal grounds upon which it is founded. The person shall not be required to post any security in order to file the application and to obtain the hearing. However, if the person does not deposit, within the 10-day period prescribed in Section 45352, that security which the board deems necessary to ensure compliance with this part, the filing of the application shall not operate as a stay of collection activities, except for sale of property seized after issuance of the jeopardy determination. Upon a showing of good cause for failure to file a timely application for an administrative hearing, the board may allow a filing of the application and grant the person an administrative hearing. The filing of an application pursuant to this section does not affect Section 45351, relating to the finality date of the determination or to penalty or interest.

CHAPTER 4. COLLECTION OF FEE

Article 1. Suit for Fee

45401. The board may bring any legal action necessary to collect

any deficiency in the fee required to be paid, and, upon the board's request, the Attorney General shall bring the action.

45402. In any action brought to enforce the rights of the state with respect to any fee, a certificate by the board showing the delinquency shall be prima facie evidence of the levy of the fee, of the delinquency of the amount of fee, interest, and penalty set forth therein, and of compliance by the board with this part in relation to the computation and levy of the fee. In that action, a writ of attachment may be issued in the manner provided by Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure.

Article 2. Judgment for Fee

45451. (a) If any person fails to pay any amount imposed pursuant to this part at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. A lien is subject to Chapter 14 (commencing with Section 7150 of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section, amounts are due and payable on the following dates:

(1) For amounts disclosed on a report received by the board before the date the return is delinquent, the date the amount would have been due and payable.

(2) For amounts disclosed on a report filed on or after the date the return is delinquent, the date the return is received by the board or July 1 of the year following the calendar year period of the report, whichever is later.

(3) For amounts determined under Section 45351 (pertaining to jeopardy assessments), the date the notice of the board's finding is mailed or issued.

(4) For all other amounts, the date the assessment is final.

45452. (a) If the board determines that the amount of any fee, interest, and penalties are sufficiently secured by a lien on other property or that the release or subordination of the lien imposed under this article will not jeopardize the collection of the amount of the fee, interest, and penalties, the board may at any time release all or any portion of the property subject to the lien from the lien or may subordinate the lien to other liens and encumbrances.

(b) If the board finds that the liability represented by the lien imposed under this article, including any interest accrued thereon, is legally unenforceable, the board may release the lien.

(c) A certificate by the board to the effect that any property has been released from a lien or that the lien has been subordinated to other liens and encumbrances is conclusive evidence that the property has been released or that the lien has been subordinated,

as provided in the certificate.

Article 3. Warrant for Collection

45501. At any time within three years after any person is delinquent in the payment of any amount required to be paid under this part, or the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, the board, or its authorized representative, may issue a warrant for the enforcement of any lien and for the collection of any amount required to be paid to the state under this part. The warrant shall be directed to any sheriff, marshal, or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of, and sale pursuant to, a writ of execution.

45502. The board may pay or advance to the sheriff, marshal, or constable, the same fees, commissions, or expenses for services as are provided by law for similar services pursuant to a writ of execution. The board, and not the court, shall approve the fees for publication in a newspaper.

45503. The fees, commissions, and expenses are the obligation of the person required to pay any amount under this part and may be collected from him or her by virtue of the warrant or in any other manner provided in this part for the collection of the fee.

Article 4. Seizure and Sale

45551. Whenever any fee payer is delinquent in the payment of the fee, the board, or its authorized representative, may seize any property, real or personal, of the fee payer, and sell at public auction the property seized, or a sufficient portion thereof, to pay the fee due, together with any penalties imposed for the delinquency and all costs that have been incurred on account of the seizure and sale.

45552. Written notice of the intended sale, and the time and place thereof, shall be given to the delinquent fee payer and to all persons appearing of record to have an interest in the property at least 10 days before the date set for the sale by enclosing the notice in an envelope addressed to the fee payer at his or her last known residence or place of business in this state as it appears upon the records of the board, if any, and depositing it in the United States registered mail, postage prepaid. The notice shall also be published pursuant to Section 6062 of the Government Code in the county in which the property seized is to be sold. If there is no newspaper of general circulation in the county, the notice shall be posted in three public places in the county for the 10-day period. The notice shall contain a description of the property to be sold, a statement of the amount of the fees, penalties, and costs, the name of the fee payer, and the further statement that unless the fees, penalties, and costs are paid on or before the time fixed in the notice of the sale, the

property, or so much thereof as may be necessary, will be sold in accordance with law and the notice.

45553. At the sale the property shall be sold by the board, or by its authorized agent, in accordance with law and the notice, and the board shall deliver to the purchaser a bill of sale for the personal property and a deed for any real property sold. The bill of sale or deed vests title in the purchaser subject to a right of redemption as prescribed in the Code of Civil Procedure upon sales of real property on execution. The unsold portion of any property seized may be left at the place of sale at the risk of the fee payer.

45554. If, after the sale, the money received exceeds the amount of all fees, penalties, and costs due the state from the fee payer, the board shall return the excess to him or her and obtain his or her receipt. If any persons having an interest in or lien upon the property files with the board prior to the sale notice of his or her interest, the board shall withhold any excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If the receipt of the fee payer is not available, the board shall deposit the excess moneys with the Treasurer, as trustee for the owner, subject to the order of the fee payer, his or her heirs, successors, or assigns.

Article 5. Miscellaneous

45601. If any fee payer is delinquent in the payment of any obligation imposed by this part, or if any determination has been made against a fee payer which remains unpaid, the board may, not later than three years after the payment becomes delinquent, or the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, give notice thereof, personally or by first-class mail, to all persons, including any officer or department of the state or any political subdivision or agency of the state, having in their possession or under their control any credits or other personal property belonging to the fee payer, or owing any debts to the fee payer. In the case of any state officer, department, or agency, the notice shall be given to the officer, department, or agency prior to the time it presents the claim of the delinquent fee payer to the Controller.

45602. After receiving the notice, the persons so notified shall not transfer or make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the board consents to a transfer or disposition or until 60 days after the receipt of the notice, whichever occurs first.

45603. All persons so notified shall immediately, after receipt of the notice, advise the board of all credits, other personal property, or debts in their possession, under their control, or owing by them. If the notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the

possession or under the control of a bank, the notice, to be effective, shall state the amount, interest, and penalty due from the person and shall be delivered or mailed to the branch or office of the bank at which the deposit is carried or mailed to the branch or office of the bank at which the deposit is carried or at which the credits or personal property are held. Notwithstanding any other provision of law, with respect to a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice shall only be effective with respect to an amount not in excess of the amount, interest, and penalty due from the person.

45604. If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld, to the extent of the value of the property or the amount of the debts thus transferred or paid, he or she shall be liable to the state for any indebtedness due under this part from the person with respect to whose obligation the notice was given, if solely by reason of that transfer or disposition, the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

45605. The board may, by notice of levy, served personally or by first-class mail, require all persons having in their possession, or under their control, any credits or other personal property belonging to a fee payer or other person liable for any amount under this part to withhold from these credits or other personal property the amount of any fee, interest, or penalties due from the fee payer or other person, or the amount of any liability incurred under this part, and to transmit the amount withheld to the board at the time it may designate.

In the case of a financial institution, to be effective, the notice shall state the amount due from the fee payer and shall be delivered or mailed to the branch office of the financial institution where the credits or other property are held, unless another branch or office is designated by the financial institution to receive the notice.

45606. The remedies of the state provided for in this chapter are cumulative, and no action taken by the board or by the Attorney General constitutes an election by the state or any of its officers to pursue any remedy to the exclusion of any other remedy for which provision is made in this part.

45607. The amounts required to be paid by any person under this part together with interest and penalties shall be satisfied first in any of the following cases:

(a) Whenever the person is insolvent.

(b) Whenever the person makes a voluntary assignment of his or her assets.

(c) Whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased.

(d) Whenever the estate and effects of an absconding, concealed, or absent person required to pay any amount under this part are

levied upon by process of law.

This section does not give the state a preference over a lien or security interest which was recorded or perfected prior to the time when the state records or files its lien, as provided in Section 7171 of the Government Code.

The preference given to the state by this section is subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure.

CHAPTER 5. OVERPAYMENTS AND REFUNDS

Article 1. Claim for Refund

45651. If the board determines that any amount of fee, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board and shall certify to the State Board of Control the amount collected in excess of what was legally due and the person from whom it was collected or by whom paid. If approved by the State Board of Control, the excess amount collected or paid shall be credited on any amounts then due from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his or her successors, administrators, or executors.

However, in the case of a determination by the board that an amount not to exceed fifteen thousand dollars ($15,000) was not required to be paid under this part, the board, without obtaining the approval of the State Board of Control, may credit the amount on any amounts then due and payable under this part from the person by whom the amount was paid and may refund the balance to the person or his or her successors, administrators, or executors.

45652. (a) Except as provided in subdivision (b), no refund shall be approved by the board after three years from the due date of the payment for the period for which the overpayment was made, or, with respect to determinations made under Article 2 (commencing with Section 45201) of Chapter 3, within six months after the determinations have become final, whichever period expires later, unless a claim therefor is filed with the board within that period. No credit shall be approved by the board after the expiration of that period, unless a claim for credit is filed with the board within that period or unless the credit relates to a period for which a waiver is given pursuant to Section 45204.

(b) A refund may be approved by the board for any period for which a waiver is given under Section 45204 if a claim therefor is filed with the board before the expiration of the period agreed upon.

(c) Every claim for refund or credit shall be in writing and shall state the specific grounds upon which the claim is founded.

45653. Failure to file a claim within the time prescribed in this article constitutes a waiver of all demands against the state on

account of the overpayment.

45654. Within 30 days after disallowing any claim, in whole or in part, the board shall serve written notice of its action on the claimant pursuant to Section 45201.

45655. Interest shall be computed, allowed, and paid upon any overpayment of any amount of fee at the modified adjusted rate per month established pursuant to Section 6591.5, from the due date of the return for the period for which the overpayment was made, but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the 15th day of the calendar month following the date upon which the claimant is notified by the board that a claim may be filed or the date upon which the claim is certified to the State Board of Control, whichever date is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the fee or amount against which the credit is applied.

45656. If the board determines that any overpayment has been made intentionally or by reason of carelessness, it shall not allow any interest thereon.

Article 2. Suit for Refund

45701. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this state or against any office of the state to prevent or enjoin the collection of any fee sought to be collected.

45702. No suit or proceeding shall be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally assessed or collected unless a claim for refund or credit has been duly filed.

45703. Within 90 days after the mailing of the notice of the board's action upon a claim for refund or credit, the claimant may bring an action against the board on the grounds set forth in the claim in a court of competent jurisdiction in the County of Sacramento for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

45704. If the board fails to mail notice of action on a claim within six months after the claim is filed, the claimant may, prior to the mailing of notice by the board, consider the claim disallowed and bring an action against the board on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

45705. Failure to bring suit or action within the time specified in this article constitutes a waiver of all demands against the state on account of any alleged overpayments.

45706. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any fees due from the plaintiff,

and the balance shall be refunded to the plaintiff.

45707. In any judgment, interest shall be allowed at the modified adjusted rate per annum established pursuant to Section 6591.5, upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

45708. A judgment shall not be rendered in favor of the plaintiff in any action brought against the board to recover any fee paid when the action is brought by or in the name of an assignee of the fee payer paying the tax or by any person other than the person who has paid the fee.

As used in this section, "assignee" does not include a person who has acquired the business of the fee payer which gave rise to the fees and who is thereby a successor in interest to the fee payer.

Article 3. Recovery of Erroneous Refunds

45751. The Controller may recover any refund or part thereof which is erroneously made and any credit or part thereof which is erroneously allowed in an action brought in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California, and the action shall be tried in the County of Sacramento unless the court, with the consent of the Attorney General, orders a change of place of trial. The Attorney General shall prosecute the action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings.

Article 4. Cancellations

45801. If any amount in excess of fifteen thousand dollars ($15,000) has been illegally determined, either by the person filing the return or by the board, the board shall certify to the State Board of Control the amount determined to be in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board. If an amount not exceeding fifteen thousand dollars ($15,000) has been illegally determined, either by the person filing a return or by the board, the board, without certifying this fact to the State Board of Control, shall authorize the cancellation of the amount upon the records of the board.

CHAPTER 6. ADMINISTRATION

45851. The board shall enforce this part and may prescribe, adopt, and enforce rules and regulations relating to the

administration and enforcement of this part.

45852. The board may make such examinations of the books and records of any fee payer as it may deem necessary in carrying out this part.

45853. The board may employ accountants, auditors, investigators, and other expert and clerical assistance necessary to enforce its powers and perform its duties under this part.

45854. A certificate by the board or an employee of the board stating that a notice required by this part was given by mailing or personal service shall be prima facie evidence in any administrative or judicial proceeding of the fact and regularity of the mailing or personal service in accordance with any requirement of this part for the giving of a notice. Unless otherwise specifically required, any notice provided by this part to be mailed or served may be given either by mailing or by personal service in the manner provided for giving notice of a deficiency determination.

45855. Any information regarding solid wastes which is available to the board shall be made available to the California Waste Management Board.

CHAPTER 7. DISPOSITION OF PROCEEDS

45901. All fees, interest, and penalties imposed and all amounts of fee required to be paid to the state pursuant to Section 45051 shall be paid to the board in the form of remittances payable to the State Board of Equalization of the State of California. The board shall transmit the payments to the Treasurer to be deposited in the Solid Waste Disposal Site Cleanup and Maintenance Account in the General Fund.

CHAPTER 8. VIOLATIONS

45951. Any person who refuses to furnish any return or report required to be made, or who refuses to furnish a supplemental return or other data required by the board, is guilty of a misdemeanor and subject to a fine not to exceed five hundred dollars ($500) for each offense.

45952. Any person who knowingly or willfully files a false return or report with the board, and any person who refuses to permit the board or any of its representatives to make any inspection or examination for which provision is made in this part, or who fails to keep any records as prescribed by the board, or who fails to preserve the records for the inspection of the board for such time as the board deems necessary, or who alters, cancels, or obliterates entries in the records for the purpose of falsifying the records is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000), by imprisonment in the county jail for not less than one month or more than six months, or by both.

45953. Any person who willfully evades or attempts in any manner to evade or defeat the payment of the fee imposed by this part is guilty of a felony.

45954. Every person convicted for a violation of any provision of this part for which another penalty or punishment is not specifically provided for in this part is guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars ($500), by imprisonment in the county jail for not more than six months, or by both.

45955. Every person convicted of a felony for a violation of any provision of this part for which another punishment is not specifically provided for in this part shall be punished by a fine of not more than five thousand dollars ($5,000), by imprisonment in state prison for not less than one year nor more than five years, or by both.

45956. Any prosecution for violation of any provision of this part shall be instituted within three years after the commission of the offense.

CHAPTER 9. DISCLOSURE OF INFORMATION

45981. (a) The board shall provide any information obtained under this part to the California Waste Management Board.

(b) The California Waste Management Board and the board may utilize any information obtained pursuant to this part to develop data on the generation or disposal of solid waste within the state. Notwithstanding any other provision of this chapter, the California Waste Management Board may make waste generation and disposal data available to the public.

45982. Neither the California Waste Management Board, nor any person having an administrative duty under Part 9 (commencing with Section 15600) of Division 3 of Title 2 of the Government Code shall disclose the business affairs, operations, or any other information pertaining to a fee payer which was submitted to the board in a report or return required by this part, or permit any report or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person not expressly authorized by Section 45981 or this section. However, the Governor may, by general or special order, authorize examination of the records maintained by the board under this part by other state officers, by officers of another state, by the federal government if a reciprocal arrangement exists, or by any other person. The information so obtained pursuant to the order of the Governor shall not be made public except to the extent and in the manner that the order may authorize that it be made public.

45983. Notwithstanding Section 45982, the successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information regarding the determination of any unpaid fee or the amount of fees, interest, or penalties required to be collected or assessed.

45984. Nothing in this chapter limits or increases public access to information on any aspect of solid waste generation or disposal collected pursuant to other state or local laws, regulations, or ordinances.

SEC. 7. The sum of two million dollars ($2,000,000) is hereby appropriated from the General Fund to the Solid Waste Disposal Site Cleanup and Maintenance Account in the General Fund as a loan. The California Waste Management Board shall repay the amount of this appropriation, on or before July 1, 1990, with interest at the Pooled Money Investment Account rate, from fees deposited in the Solid Waste Disposal Site Cleanup and Maintenance Account.

SEC. 8. 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 or 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. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to initiate a mechanism to commence a program of solid waste disposal site cleanup and maintenance, in the interests of the public health and safety, as quickly as possible, it is necessary that this act become effective immediately.

CHAPTER 1320

An act to amend Sections 6254.25, 11126, 11126.3, and 54956.9 of, and to add Sections 11132 and 54962 to, the Government Code, relating to public meetings.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 6254.25 of the Government Code is amended to read:

6254.25. Nothing in this chapter or any other provision of law shall require the disclosure of a memorandum submitted to a state body or to the legislative body of a local agency by its legal counsel pursuant to subdivision (q) of Section 11126 or Section 54956.9 until the pending litigation has been finally adjudicated or otherwise settled. The memorandum shall be protected by the attorney

work-product privilege until the pending litigation has been finally adjudicated or otherwise settled.

SEC. 2. Section 11126 of the Government Code is amended to read:

11126. (a) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing. As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void. The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body. Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

For the purposes of this section, "employee" shall not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees.

(b) Nothing in this article shall be construed to prevent state bodies which administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(c) Nothing in this article shall be construed to prevent an advisory body of a state body which administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters which the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(d) Nothing in this article shall be construed to prohibit a state body from holding a closed session to deliberate on a decision to be reached based upon evidence introduced in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section

11500) of Part 1 of Division 3 of Title 2 or similar provisions of law.

(e) Nothing in this article shall be construed to prevent any state body from holding a closed session to consider matters affecting the national security.

(f) Nothing in this article shall be construed to grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(g) Nothing in this article shall be construed to prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests which the donor or proposed donor has requested in writing to be kept confidential.

(h) Nothing in this article shall be construed to prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(i) Nothing in this article shall be construed to prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties which the negotiations may concern and the person or persons with whom its negotiator may negotiate.

For purposes of this subdivision, the negotiator may be a member of the state body.

For purposes of this subdivision, "lease" includes renewal or renegotiation of a lease.

Nothing in this subdivision shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (q).

(j) Nothing in this article shall be construed to prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(k) Nothing in this article shall be construed to prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or data the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the executive officer of the Franchise Tax Board.

(*l*) Nothing in this article shall be construed to prevent the Board of Corrections from holding closed sessions when considering reports

of crime conditions under Section 6027 of the Penal Code.

(m) Nothing in this article shall be construed to prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(n) Nothing in this article shall be construed to prevent a state body which invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues which could have a material effect on the net income of the corporation. For the purpose of real property investment decisions which may be considered in a closed session pursuant to this subdivision, a state body shall also be exempt from the provision of subdivision (i) relating to the identification of real properties prior to the closed session.

(o) Nothing in this article shall be construed to prevent a state body, or such boards, commissions, administrative officers, or other representatives as may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(p) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against regulated utilities.

(q) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(1) An adjudicatory proceeding before a court, an administrative

body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(2) (A) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body; or

(B) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to subparagraph (A).

(3) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to paragraph (2) or (3), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.1.

For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(r) Nothing in this article shall be construed to prevent the examining committee established by the State Board of Forestry, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(s) Nothing in this article shall be construed to prevent an administrative committee established by the State Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(t) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.2, from conducting a closed session

to consider any matter which properly could be considered in closed session by the state body whose authority it exercises.

(u) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.7, from conducting a closed session to consider any matter which properly could be considered in a closed session by the body defined as a state body pursuant to Section 11121, 11121.2, or 11121.5.

(v) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.8, from conducting a closed session to consider any matter which properly could be considered in a closed session by the state body it advises.

(w) Nothing in this article shall be construed to prevent the State Board of Equalization from holding closed sessions for either of the following:

(1) When considering matters pertaining to the appointment or removal of the executive secretary of the State Board of Equalization.

(2) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(x) Nothing in this article shall be construed to prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of the Office of Emergency Services or the Governor pursuant to Section 8590 concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(y) This article shall not prevent the Teachers' Retirement Board from holding closed sessions when considering matters pertaining to the appointment or removal of the chief executive officer of the State Teachers' Retirement System.

SEC. 3. Section 11126.3 of the Government Code is amended to read:

11126.3. (a) Prior to holding any closed session, the state body shall state the general reason or reasons for the closed session, and cite the specific statutory authority, including the particular section, subdivision, and paragraph under which the session is being held. If the session is closed pursuant to paragraph (1) of subdivision (q) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(b) In the closed session, the state body may consider only those matters covered in its statement.

(c) The statement shall be made as part of the notice provided for the meeting pursuant to Section 11125 or pursuant to subdivision (a) of Section 92032 of the Education Code and of any order or notice required by Section 11129.

(d) If, after the closed session agenda has been published in

compliance with this section, any additional pending litigation (under subdivision (q) of Section 11126) matters arise, the postponement of which will prevent the state body from complying with any statutory, court-ordered, or other legally imposed deadline, the state body may proceed to discuss those matters in closed session and shall publicly announce in the meeting the title of, or otherwise specifically identify, the litigation to be discussed. Such an announcement shall be deemed to comply fully with the requirements of this section.

(e) Nothing in this section shall require or authorize the giving of names or other information which would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session.

SEC. 4. Section 11132 is added to the Government Code, to read:

11132. Except as expressly authorized by this article, no closed session may be held by any state body.

SEC. 5. Section 54956.9 of the Government Code is amended to read:

54956.9. Nothing in this chapter shall be construed to prevent a legislative body of a local agency, based on advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation.

For purposes of this chapter, all expressions of the lawyer-client privilege other than those provided in this section are hereby abrogated. This section is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this chapter. For purposes of this section, litigation shall be considered pending when any of the following circumstances exist:

(a) An adjudicatory proceeding before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator, to which the local agency is a party, has been initiated formally.

(b) (1) A point has been reached where, in the opinion of the legislative body of the local agency on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the local agency.

(2) Based on existing facts and circumstances, the legislative body of the local agency is meeting only to decide whether a closed session is authorized pursuant to paragraph (1) of this subdivision.

(c) Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation.

Prior to holding a closed session pursuant to this section, the legislative body of the local agency shall state publicly to which subdivision it is pursuant. If the session is closed pursuant to subdivision (a), the body shall state the title of or otherwise

specifically identify the litigation to be discussed, unless the body states that to do so would jeopardize the agency's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

The legal counsel of the legislative body of the local agency shall prepare and submit to the body a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to subdivision (a), the memorandum shall include the title of the litigation. If the closed session is pursuant to subdivision (b) or (c), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the body prior to the closed session if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.1.

For purposes of this section, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

SEC. 6. Section 54962 is added to the Government Code, to read:

54962. Except as expressly authorized by this chapter, no closed session may be held by any legislative body of any local agency.

CHAPTER 1321

An act to amend Section 1209 of the Business and Professions Code, relating to clinical laboratories.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987]

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

SECTION 1. Section 1209 of the Business and Professions Code is amended to read:

1209. (a) As used in this chapter, "laboratory director" means any person who is a duly licensed physician and surgeon, or is licensed to direct a laboratory under the provisions of this chapter, and is responsible for and administers the technical and scientific operation of a clinical laboratory, including the selection and supervision of procedures, reporting of results, and active participation in its operations to such extent as may be necessary to assure compliance with this act. He or she shall be responsible for the proper performance of all laboratory work of all subordinates.

(b) The laboratory director of a clinical laboratory of an acute care hospital shall be a physician and surgeon who is a qualified pathologist. However, if a qualified pathologist is not available, a

physician and surgeon or a clinical laboratory bioanalyst may administer the laboratory, provided a qualified pathologist is available for consultation at suitable intervals to assure high quality service. As used in this subdivision, a qualified pathologist is a physician and surgeon certified or eligible for certification in clinical pathology or pathologic anatomy by the American Board of Pathology.

(c) Subdivision (b) does not apply to any director of a clinical laboratory of an acute care hospital acting in that capacity on or before January 1, 1988.

CHAPTER 1322

An act to amend Section 3208.1 of, to add Section 3251.5 to, and to add Chapter 7 (commencing with Section 3850) to Division 3 of, the Public Resources Code, relating to oil and gas.

[Approved by Governor September 28, 1987 Filed with Secretary of State September 28, 1987.]

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

SECTION 1. Section 3208.1 of the Public Resources Code is amended to read:

3208.1. (a) To prevent, as far as possible, damage to life, health, and property, the supervisor may order the reabandonment of any previously abandoned well when the future construction of any structure over or in the proximity of the well could result in a hazard. Cost of reabandonment operations shall be the responsibility of the owner of the property upon which the structure will be located. However, if the well was not abandoned in accordance with the requirements of the division in effect at the time of the abandonment and the last operator having an economic interest in or receiving any benefit from the well is still in business in this state, that operator shall be responsible.

(b) This section does not preclude the application of Article 4.2 (commencing with Section 3250). However, that article shall not apply to remedy any problem posing a danger to life, health, or property from a previously abandoned well where construction of any structure over or in the proximity of the well is begun on or after January 1, 1988, and the property owner, developer, or local agency permitting the construction failed to obtain an opinion from the supervisor as to whether the previously abandoned well must be reabandoned. In those situations, responsibility for correcting problems posing a danger to life, health, or property from the previously abandoned well shall rest with the developer or the owner of the property at the time of construction, unless that developer or owner is deceased, defunct, or no longer in business in

or a resident of this state. Furthermore, Article 4.2 (commencing with Section 3250) shall not apply to remedy any problems posing danger to life, health, or property, if the supervisor finds, from evidence obtained by or made available to the supervisor, that (1) after the well was properly abandoned, development of the surface of the property on which the well is located by someone other than the operator or an affiliate of the operator of the property on which the well is located likely disturbed the integrity of the abandonment, and (2) the supervisor can identify the party or parties responsible for disturbing the integrity of the abandonment.

SEC. 2. Section 3251.5 is added to the Public Resources Code, to read:

3251.5. (a) Notwithstanding Section 3251, a well shall be deemed a hazardous well if it has been determined by the supervisor to pose a present danger to life, health, or natural resources and has been abandoned in accordance with the requirements of the division in effect at the time of the abandonment 15 or more years before the date of the supervisor's determination that it poses such a danger.

(b) Reabandonment initiated by the supervisor shall not be affected by the timeline established in this section.

SEC. 3. Chapter 7 (commencing with Section 3850) is added to Division 3 of the Public Resources Code, to read:

CHAPTER 7. METHANE GAS HAZARDS REDUCTION

Article 1. General Provisions

3850. This chapter shall be known and may be cited as the Methane Gas Hazards Reduction Act.

3851. The Legislature finds and declares that methane gas hazards, as identified in the study conducted pursuant to Chapter 4.1 (commencing with Section 3240) of Chapter 1, are a clear and present threat to public health and safety.

3852. The Legislature further finds and declares that, due to the cost and complexity of methane hazard mitigations, property owners and local governments are often unable to mitigate these hazards.

3853. The Legislature further finds and declares, therefore, that it is essential that the state, in cooperation with local governments, provide funds to mitigate many of the state's methane gas hazards.

Article 2. Definitions

3855. As used in this chapter:

(a) "Methane gas hazards" means collections of biogenic or thermogenic gases identified as hazards in the study conducted by the supervisor pursuant to Article 4.1 (commencing with Section 3240) of Chapter 1.

(b) "Eligible jurisdictions" means counties and cities identified as having methane gas hazards in the study conducted by the

supervisor pursuant to Article 4.1 (commencing with Section 3240) of Chapter 1.

Article 3. Methane Gas Hazards Reduction Assistance

3860. The director may award grants to eligible jurisdictions for purposes of planning, equipment purchases, installation, and other measures related to the mitigation of methane gas hazards. Ongoing maintenance and monitoring activities shall not be financed by grants pursuant to this chapter.

3861. Prior to receiving grants under this chapter, each eligible jurisdiction shall submit a report to the director describing how the funds are to be expended. Before submitting the report, each eligible jurisdiction shall provide opportunities for the public to review and comment on the report, and shall hold at least one public hearing on the report.

3862. Prior to receiving any grants pursuant to this chapter, an eligible jurisdiction shall do all of the following:

(a) Implement a zoning ordinance for areas containing methane gas hazards that establishes a methane gas hazard overlay and provides mandatory studies and mitigations for new construction within the overlay zones.

(b) Revise the safety element of the city or county general plan to illustrate the methane gas hazard areas and establish mitigative policies.

(c) Prepare a methane gas hazard mitigation plan, which provides strategies and mitigations for reducing existing methane gas hazards and for avoiding further hazards due to new construction. The plans shall be consistent with the grant report, the zoning ordinance, and the general plan safety element.

3863. The department shall adopt rules and regulations implementing the grant program authorized by this chapter.

Article 4. Methane Gas Hazard Reduction Account

3865. The Methane Gas Hazard Reduction Account in the General Fund is hereby created. The moneys in the account shall be available for purposes of this chapter upon appropriation therefor by the Legislature.

SEC. 4. The sum of five hundred thousand dollars ($500,000) is hereby transferred from the Special Account for Capital Outlay in the General Fund to the Methane Gas Hazard Reduction Account.

CHAPTER 1323

An act to add Section 7262.5 to the Revenue and Taxation Code, relating to taxation.

[Became law without Governor's signature Filed with Secretary of State September 29, 1987]

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

SECTION 1. The Legislature finds and declares the following:

(a) Since the passage of Proposition 13, public library funding in Mendocino County has declined over 40 percent in real terms.

(b) Due to continuing county fiscal pressures, no new library book acquisitions have been carried out since 1981.

(c) Lack of consistent and stable revenues for Mendocino County public library operations threatens the closure of library branches in Fort Bragg and Willits, the loss of state and federal matching funds, and the curtailment of library literacy programs.

(d) The Mendocino County public library system provides unique and valued cultural and educational services to its citizens, as evidenced by the fact that over 45 percent of the county's adult residents possess public library cards.

(e) Local revenue enhancement techniques, such as special taxes and assessments for county public libraries, have not fared well in counties around the state, leaving counties such as Mendocino without effective revenue enhancement techniques for public library funding.

(f) Therefore, it is the intent of the Legislature to grant to Mendocino County, subject to approval by the Mendocino County Board of Supervisors and two-thirds of the voters voting in an election on the issue, five-year authority to levy a transactions and use tax at a rate of ½ or 1 percent for the purpose of funding public library operations.

SEC. 2. Section 7262.5 is added to the Revenue and Taxation Code, to read:

7262.5. In addition to the tax levied pursuant to Part 1.5 (commencing with Section 7200), the County of Mendocino may impose a transactions and use tax by the adoption of an ordinance in accordance with this part if each of the following conditions are met:

(a) The ordinance imposing the tax is submitted to and approved by the voters of the county in accordance with Article 3.7 (commencing with Section 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(b) The tax is imposed at a rate of ½ or 1 percent and for a period not to exceed five years.

(c) The revenues collected from the tax may be used only for the purpose of funding county library programs and operations.

CHAPTER 1324

An act to amend Sections 70045.7, 73432, 73432.1, 74001.5, 74002, 74004, 74368, 74370, and 74371 of the Government Code, relating to courts.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987]

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

SECTION 1. Section 70045.7 of the Government Code is amended to read:

70045.7. In Napa County, each regular official reporter shall be paid an annual salary of twenty-five thousand dollars ($25,000), and each pro tempore official reporter shall be paid one hundred ten dollars ($110) a day for the days he actually is on duty under order of the court. However, the board of supervisors, by ordinance, may establish a higher annual salary for each regular official reporter or a higher per diem for each pro tempore official reporter, or both.

SEC. 1.5. Section 73432 of the Government Code is amended to read:

73432. The judges of the West Kern Municipal Court District may appoint one traffic referee who shall hold office at the pleasure of the judges.

A traffic referee appointed by the municipal court judges shall have the powers and duties specified for traffic referees in Sections 72401 and 72402.

A traffic referee in the West Kern Municipal Court District shall receive annual compensation:

(a) Equal to 50 percent of the salary of a judge of the municipal court during the first year of service;

(b) Equal to 55 percent of the salary of a judge of the municipal court during the second year of service;

(c) Equal to 60 percent of the salary of a judge of the municipal court during the third year of service; and

(d) Equal to 65 to 75 percent of the salary of a judge of the municipal court during and after the fourth year of service. The traffic referee shall be paid on a biweekly basis pursuant to the payroll procedures in effect in the County of Kern.

The initial appointment to traffic referee shall be made at the 50 percent range. After the first year of service, and on the second and third anniversaries of service, the traffic referee may be compensated in the percentage amounts specified for the years of service in paragraphs (b), (c), and (d) above, subject to the recommendation of a majority of the judges and the approval of the board of supervisors.

SEC. 1.7. Section 73432.1 of the Government Code is amended to read:

73432.1. (a) The judges of the West Kern Municipal Court may appoint one commissioner. The commissioner shall possess the same qualifications as the law requires of a judge of the court. Within the jurisdiction of the court and under the direction of the judges, the commissioner shall exercise the powers and perform the duties authorized by law to be performed by commissioners of the superior court and such additional powers and duties as may be prescribed by law.

(b) The commissioner shall be paid biweekly, pursuant to the payroll procedures in effect in the County of Kern, in an amount equal to 70 to 85 percent of a municipal court judge's salary. The court shall recommend to the board of supervisors the level of salary to be received by the commissioner based on qualifications, performance, and other factors deemed relevant by the court, and the board of supervisors shall determine the salary level within the specified range. The biweekly salary rate of the commissioner shall be adjusted at the same time and manner and in the same percentage amount as set forth in Section 68203.

(c) In addition to the compensation provided for in this section, the commissioner shall be entitled to and shall receive on the same basis as other county employees, the same benefits and privileges with respect to retirement, group insurance, sick leave, and vacation. The commissioner shall observe the same holidays as other court employees.

SEC. 2. Section 74001.5 of the Government Code is amended to read:

74001.5. The judges of the Central Orange County Judicial District may appoint two court commissioners. 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 two court commissioners. 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. 3. Section 74002 of the Government Code is amended to read:

74002. There shall be one clerk and administrative officer for each court who shall be the court's executive officer and who shall be appointed by, and serve at the pleasure of, a majority of the judges

of the court, or in the case of an equal division of the judges of the court, the senior judge of the court, and who shall receive a biweekly salary as provided by the following range numbers of Section 74005; and each clerk and administrative officer/executive officer may appoint one chief deputy clerk who shall receive a biweekly salary as provided by the following range numbers of Section 74005:

Number of judicial positions authorized by law	Clerk and Administrative Officer/Executive Officer pay range	Chief Deputy Clerk pay range
3–5	E72	E62
6–8	E73	E63
9–11	E74	E64
12–14	E75	E65
15–17	E76	E66

Range changes shall be effective the first pay period after the effective date of legislation authorizing judicial positions.

SEC. 4. 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 constitutes 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:

Class Code	Title of Classification	Salary Range	Number of Positions Authorized in Each Court				
			NOC	COC	WOC	OCH	SOC
0534	Info. proc spec II	D37	15	14	14	11	4
0566	Judicial secy. I, MC	D40 S/2	1	1	1	1	0
0569	Judicial secy. II, MC	D44	1	1	1	1	1
0580	Secretary III	D44	1	1	1	1	1
0705	Deputy clerk I, MC	D33 S/5	46	61	44	29	18
0708	Deputy clerk II, MC	D35 S/3	20	17	20	23	13
0711	Deputy clerk III, MC	D40	8	7	9	7	5
0712	Judicial asst, MC	D52	1	1	1	1	1

0714	Deputy clerk IV, MC	D42	1	2	1	0	1
0718	Supv. deputy clerk I, MC .	D43	2	3	2	1	0
0719	Supv. deputy clerk II, MC....	D46	3	2	3	2	1
0720	Division head I, MC.	D53	0	0	0	0	4
0723	Division head II, MC	D55	5	5	5	5	0
0744	Asst. courtroom clerk, MC	D38	3	3	6	4	0
0745	Courtroom clerk, MC	D50	15	17	12	11	6
0780	Interpreter, MC	A39	4	2	3	1	0
2381	Municipal court judicial ... Hearing officer	45,000/ Flat	0	1	0	0	0
7509	Detention release officer .	A56	0	10	0	0	0
7510	Senior detention release off	A58	0	6	0	0	0
7511	Supv detention release off...	A62	0	1	0	0	0
7918	Systems analyst II.	A55	0	1	0	0	0
7920	Systems analyst III	A60	0	0	0	0	0
7922	Systems analyst IV	A64	1	1	1	1	1
8449	ASA municipal court/ marshal	E63	0	1	0	0	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 personnel 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. 5. Section 74368 of the Government Code is amended to read:

74368. The marshal may make the following appointments:

(a) One assistant marshal.

(b) Four captains.

(c) Four lieutenants.

(d) Eighteen sergeants.

(e) One hundred sixty-three 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 completed a California P.O.S.T. certified basic academy and been employed for at least one year in a position enumerated in Section

830.1, 830.2, 830.3, or 830.4 of the Penal Code within the past three years.

(f) One administrative secretary I, II, or III.

(g) One chief, administrative services or administrative assistant III.

(h) Twenty intermediate typists.

(i) Six senior typists.

(j) Thirty-five field service officers.

Notwithstanding any other provisions of this article, in no event shall a field service officer's salary be less than 65 percent of the salary of a deputy marshal at the corresponding pay step. The field service officer 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 field service officer 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 field service officer shall receive 65 percent of the uniform allowance prescribed for deputy marshals. In the event that a field service officer 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 field service officer uniforms and equipment.

Every person occupying a deputy marshal-cadet position on January 1, 1988, will be reclassified without further examination to a position of field service officer.

(k) 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).

(*l*) Eight legal procedures clerks III.

(m) Thirty legal procedures clerks II or I.

(n) 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 class 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

service 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 personnel director 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.

(o) 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 for such person's class and step.

(p) Two principal clerks.

(q) Three communications dispatchers.

(r) Two administrative assistants III, II, I, or trainee.

(s) One EDP coordinator, or senior systems analyst.

(t) Notwithstanding Section 74369, up to 15 extra help positions (hourly rate) to be appointed at a level as determined by and serve at the pleasure of 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.

(u) Notwithstanding Section 74369, the marshal may appoint up to six 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 the County of San Diego.

(v) One associate systems analyst or assistant systems analyst.

(w) One administrative services manager I, II, or III. Each appointment to a position in this subdivision will result in a commensurate reduction in the number of positions included in subdivision (g).

(x) Three communications dispatchers I or II. Each appointment to a position in this section will result in a commensurate reduction in the positions included in subdivision (q).

(y) Two supervising legal services clerks. Each appointment to a position in this section will result in a commensurate reduction in the number of positions included in subdivision (p).

(z) Notwithstanding Section 74369, up to five provisional workers may be appointed by and serve at the pleasure of the marshal. The class of provisional worker provides for temporary appointments to positions in classes not listed in Section 74370 pending a review and

evaluation of the duties of these positions by the marshal, and the establishment of specific classes as provided in this subdivision. The rate of pay for each individual employed in this class shall be within the range proposed for the class pending establishment, at a rate determined by the marshal following consultation with the county personnel director. The rules regarding appointment and compensation as they relate to appointments to provisional worker shall be the same as those applicable to the class that is pending establishment. Appointments shall be temporary and shall not exceed six months. Employee benefits, if applicable, shall be equal to those granted to the class in the service of the County of San Diego to which the pending class will be tied for benefit purposes. When such an appointment is made, the class, compensation (including salary and fringe benefits), and number of such positions may be established by joint action of the marshal and the board of supervisors in accordance with established county personnel and budgetary procedures. The marshal may then appoint additional attachés to such classes of positions in the same manner as those for which express provision is made, and they shall receive the compensation so provided. Persons occupying provisional worker positions shall have their appointments expire not later than 30 calendar days following promulgation of a list of certified eligibles for the new class. Appointments to the new class shall continue at the stated compensation or as thereafter modified by joint action of the marshal and the board of supervisors.

SEC. 6. Section 74370 of the Government Code is amended to read:

74370. (a) 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 fringe benefit level to certain classes in the service of the County of San Diego and whenever the salary of a class in the service of the County of San Diego 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, effective on the same date.

The equivalent classes are as follows:

Marshal class	County class
Assistant marshal	Assistant sheriff
Captain	Deputy sheriff-captain
Lieutenant	Deputy sheriff-lieutenant
Sergeant	Deputy sheriff-sergeant
Deputy marshal	Deputy sheriff
Court service officer	Revenue and recovery officer II
Field service officer	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
Administrative services manager I	Administrative services manager I
Administrative services manager II	Administrative services manager II
Administrative services manager III	Administrative services manager III
Supervising legal services clerk	Supervising legal services clerk
Communications dispatcher I	Communications dispatcher I
Communications dispatcher II	Communications dispatcher II

(b) In addition to the salary provided in this article officers, deputies, and other attachés of the marshal's office shall receive, and they shall be entitled to the same number of holidays, leaves of absence, retirement benefits, deferred compensation benefits, and all other fringe benefits as are now or may hereafter be provided for the specified comparable employees of the County of San Diego.

For purposes of providing the fringe benefits specified in this section, each class in the marshal's office shall receive benefits equal to those of the comparable class in the service of the County of San Diego as specified in this section. The marshal shall receive the same fringe benefits received by the Chief Probation Officer of the County of San Diego.

The purpose and intent of this subdivision is to provide all marshal's personnel with any and all fringe benefits, but no more than those, which are available to their comparable classes in the service of the County of San Diego, as specified in this section. Whenever action or approval by the chief administrative officer or the county personnel director is required by the county benefit, it

shall be taken or given as to comparable marshal's employees, by the marshal, or as to the marshal by the majority of the judges or their designees. Changes in fringe benefits shall be effective on the same date as those for employees of the County of San Diego in the specified comparable classes. The marshal may adopt rules for the conduct of and personnel privileges to be afforded marshal employees, excluding fringe benefits.

SEC. 7. Section 74371 of the Government Code is amended to read:

74371. In the event that the number of judges, commissioners, or referees provided for the superior court or any existing municipal court judicial district in the County of San Diego is increased, or that additional municipal court judicial districts are provided in the County of San Diego, thereby causing an increase in the number of judges, commissioners, or referees, the marshal at his discretion may appoint one deputy marshal or court service officer and one intermediate typist, legal procedures clerk, or field service officer each of whom shall receive compensation as specified for their respective classifications, for each additional judge, commissioner, or referee appointed or elected.

SEC. 8. 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 1325

An act to amend Section 2762 of the Fish and Game Code, and to amend Section 6217.1 of the Public Resources Code, relating to fisheries, and making an appropriation therefor.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987]

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

SECTION 1. Section 2762 of the Fish and Game Code is amended to read:

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 to the department for expenditure in fiscal years 1986–87 to 1990–91, inclusive, 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.

(d) On and after July 1, 1986, expenditures shall not be authorized for multiyear projects funded under subdivision (b) before a date which is 30 days after the department has submitted an annual progress report on the project and a copy of the work schedule for subsequent year funding of the project to the Joint Committee on Fisheries and Aquaculture and to the Joint Legislative Budget Committee.

(e) The department shall conduct a preproject and postproject evaluation on each project for which money has been appropriated from the Fisheries Restoration Account.

(f) The department may expend not more than 5 percent of the funds annually appropriated from the Fisheries Restoration Account for the administration of projects.

(g) The department may contract for services for the purpose of conducting a preproject and postproject evaluation or for the administration of projects.

SEC. 2. Section 6217.1 of the Public Resources Code is amended 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 the 1988–89 fiscal year 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) It is the intent of the Legislature that any subsequent transfers to the Fisheries Restoration Account shall be made in the annual budget acts.

(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.

CHAPTER 1326

An act to add Section 39037.05 to, and to add and repeal Sections 43837 and 43838 of, the Health and Safety Code, and to add Section 25310.1 to the Public Resources Code, relating to air pollution.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 39037.05 is added to the Health and Safety Code, to read:

39037.05. "Low-emission motor vehicle" means a motor vehicle which has been certified by the state board to meet all applicable emission standards and meets one of the following additional requirements:

(a) Is capable of operating on methanol, as determined by the state board, and will have an adverse impact on ambient air quality standards for ozone no greater than a vehicle which meets the requirements of subdivision (c).

(b) Is capable of operating on any available fuel other than gasoline or diesel and, in the determination of the state board, will have an adverse impact on ozone air quality no greater than a vehicle operating on methanol.

(c) Operates exclusively on gasoline and is certified to meet a hydrocarbon exhaust emission standard which is at least twice as stringent as otherwise applicable to light-duty gasoline vehicles.

SEC. 2. Section 43837 is added to the Health and Safety Code, to read:

43837. (a) The Advisory Board on Air Quality and Fuels is hereby created in state government.

(b) The purposes of the advisory board shall include all of the following:

(1) Provide an independent group of public and private individuals to assemble and evaluate information, and provide judgments and recommendations with regard to the necessity and feasibility of the implementation of methanol-fueled vehicle production and methanol availability mandates.

(2) Examine the technological feasibility and cost effectiveness of the mandated production, sale, and operation of methanol capable and dedicated methanol-fueled vehicles by public and private fleet operators and by the public, and of the phased conversion, expansion, or improvement of the motor vehicle fuel transport, storage, and distribution infrastructure to methanol compatibility, in comparison to other available air quality stategies.

(3) Examine issues related to consumer acceptance of methanol vehicles and the use of methanol fuel, including vehicle performance and durability, fuel and vehicle pricing, vehicle resale, the availability and the convenience of fuel supply and distribution, relative to other control technologies and fuels.

(4) Examine issues related to the economics of methanol production and supply, including anticipated price differentials between methanol, gasoline, and diesel at the wholesale and retail levels, projected methanol production capacity and primary raw materials sources, quantities, and cost, and the impact of methanol substitution on the state's energy security compared to other available options for reducing vulnerability to petroleum supply interruptions and rapid price increases.

(5) Examine the relative environmental, and public health and safety impacts and tradeoffs resulting from the substitution of methanol fuel, compared to other alternative fuels, technologies, and vehicles, including all of the following:

(A) The effect on vehicular and nonvehicular emissions, ambient air quality, and visibility.

(B) Public exposure and environmental contamination from toxic substances associated with fuels, including formaldehyde, benzene, methanol, and gasoline.

(C) Safety and fuel handling and storage issues.

(6) Examine the effectiveness of tax incentives for both industry and consumers and for government purchases of methanol fuel in facilitating the transition to increased use of methanol fuel.

(c) The advisory board shall consist of 17 members, of whom four shall be public members, two appointed by the Senate Committee on Rules, and two appointed by the Speaker of the Assembly. The Governor shall appoint the following 13 members of the commission and designate the chairperson:

(1) The Secretary of Environmental Affairs.

(2) The Secretary of the Business, Transportation and Housing Agency.

(3) The Chairperson of the State Energy Resources Conservation and Development Commission.

(4) The chairperson of the south coast district and a representative from a district in a nonattainment area.

(5) Three representatives of the California petroleum fuel industry.

(6) One representative of the methanol industry.

(7) Two representatives of the domestic motor vehicle

manufacturing industry, one of whom shall represent manufacturers of heavy-duty vehicles or engines.

(8) One representative of the imported motor vehicle manufacturing industry.

(9) The Director of Food and Agriculture.

The advisory board may appoint additional ex officio members.

(d) The advisory board may select an executive director, approve study protocols, let contracts, including selection of contractors, and conduct public hearings.

(e) The chairperson of the advisory board may oversee the day-to-day operations of the advisory board, chair meetings, appoint a vice chairperson, appoint special task forces as necessary, establish the agenda, and schedule meetings.

(f) The advisory board may request assistance from the state board, the State Energy Resources Conservation and Development Commission, the south coast district, or other public bodies for administrative services and staff support, and these agencies may provide these services, to the extent they determine is feasible, within existing budgetary resources. The advisory board may solicit funds from other public or private sources, and may accept private and public in-kind contributions, including technical and professional support, to accomplish the purposes of this chapter. The advisory board shall report on the sources and amounts of funds or contributions received.

(g) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 3. Section 43838 is added to the Health and Safety Code, to read:

43838. (a) Not later than one year after the appointment of its members, the Advisory Board on Air Quality and Fuels shall submit a report to the Legislature which includes its findings and recommendations with respect to the environmental and economic impacts and feasibility of the implementation of methanol-fueled vehicle production and methanol availability mandates.

(b) Nothing in Section 43837 or this section limits the existing authority of the state board, any district, or the State Energy Resources Conservation and Development Commission to adopt regulations relating to low-emission vehicles or low-emission fuels.

(c) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 4. Section 25310.1 is added to the Public Resources Code, to read:

25310.1. The commission, in cooperation with the State Air Resources Board, shall prepare, by September 1, 1988, a report on the expected availability and prices of fuels which are anticipated to be required for use in low-emission motor vehicles using methanol or other clean-burning fuels and shall thereafter include, in its biennial

report prepared under Section 25310, information on the expected availability and prices of those fuels.

The report shall include an assessment of the relative cost to users, compared to gasoline, of these fuels. The report shall also recommend to the Legislature any changes needed to ensure that these fuels are used to the greatest extent practicable. This information shall be included in the 1989 biennial report and in each report thereafter.

The 1991 and later biennial reports shall include an assessment of the success of the introduction, prices, and availability of these fuels.

SEC. 5. (a) The State Air Resources Board shall conduct a study to be undertaken jointly by the board and the California railroad industry, if it can be done with existing resources or from nonstate sources. The study shall include a survey of past research into the subject of railroad locomotive emissions, a review of present locomotive emissions, current technology available to reduce those emissions, a cost-benefit analysis regarding the economic impact on the railroad industry of utilizing present and proposed technology, and consideration of public and employee safety issues that may result with the use of these technologies. The board and the railroad industry shall also study existing and proposed technologies that are economically feasible and practical for the industry to implement in order to contribute to a reduction of railroad locomotive emissions. A demonstration project may be conducted, based on the study, only if the Locomotive Emission Advisory Committee, created pursuant to subdivision (b), has found in the study sufficient reasons to believe that a demonstration project is likely to result in findings that locomotive emission regulation would have significant air pollution benefits and would be cost-effective and safe. The use of consulting, research, and testing firms to assist in any study or demonstration shall be subject to consultation between the board and railroad industry representatives.

(b) The study and any demonstration project shall be directed by, and study recommendations and any project report adopted by, the Locomotive Emission Advisory Committee composed of the following nine persons:

(1) The Secretary of Environmental Affairs or the secretary's designee.

(2) The Chairman of the State Energy Resources Conservation and Development Commission or the chairman's designee.

(3) The Secretary of the Business, Transportation and Housing Agency or the secretary's designee.

(4) One representative each from one northern California and one southern California air pollution control district or air quality management district in nonattainment areas.

(5) One representative from each of the four major operating railroads in this state.

(c) The draft study, with recommendations, shall be submitted to the Governor and the Legislature not later than July 1, 1989. The final

study, with recommendations, shall be submitted to the Governor and the Legislature not later than January 1, 1990. If a demonstration project is conducted, the project and a subsequent report to the Governor and the Legislature shall be completed and submitted not later than January 1, 1993.

CHAPTER 1327

An act to amend Sections 25845, 54960.1, 56331, 56379, 56853, 57078, 57176, and 61601.10 of, to amend and renumber Section 56377.5 of, and to add Section 56331.3 to, the Government Code, to amend Section 5473.4 of, and to add Section 4739.5 to, the Health and Safety Code, to amend Section 22010 of, and to repeal Section 20398 of, the Public Contract Code, to add Section 1188 to the Streets and Highways Code, to amend Section 50705 of the Water Code, and to amend Section 66 of the Fairfield-Suisun Sewer District Act (Chapter 303 of the Statutes of 1951), relating to public agencies.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987]

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

SECTION 1. Section 25845 of the Government Code is amended to read:

25845. (a) The board of supervisors, by ordinance, may establish a procedure for the abatement of a nuisance. The ordinance shall, at a minimum, provide that the owner of the parcel, and anyone known to the board of supervisors to be in possession of the parcel, be given notice of the abatement proceeding and an opportunity to appear before the board of supervisors and be heard prior to the abatement of the nuisance by the county. However, nothing in this section prohibits the summary abatement of a nuisance upon order of the board of supervisors, or upon order of any other county officer authorized by law to summarily abate nuisances, if the board or officer determines that the nuisance constitutes an immediate threat to public health or safety.

(b) If the owner fails to pay the costs of the abatement upon demand by the county, the board of supervisors may order the cost of the abatement to be specially assessed against the parcel. The assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as are provided for ordinary county taxes. All laws applicable to the levy, collection, and enforcement of county taxes are applicable to the special assessment.

(c) If the board of supervisors specially assesses the cost of the abatement against the parcel, the board also may cause a notice of

abatement lien to be recorded. The notice shall, at a minimum, identify the record owner or possessor of property, set forth the last known address of the record owner or possessor, set forth the date upon which abatement of the nuisance was ordered by the board of supervisors and the date the abatement was complete, and include a description of the real property subject to the lien and the amount of the abatement cost.

(d) However, if the board of supervisors does not cause the recordation of a notice of abatement lien pursuant to subdivision (c), and any real property to which the costs of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or a lien on a bona fide encumbrancer for value has been created and attaches to that property, prior to the date on which the first installment of county taxes would become delinquent, then the cost of abatement shall not result in a lien against that real property but shall be transferred to the unsecured roll for collection.

(e) Recordation of a notice of abatement lien pursuant to subdivision (c) has the same effect as recordation of an abstract of a money judgment recorded pursuant to Article 2 (commencing with Section 697.310) of Chapter 2 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure. The lien created has the same priority as a judgment lien on real property and continues in effect until released. Upon order of the board of supervisors, or any county officer authorized by the board of supervisors to act on its behalf, an abatement lien created under this section may be released or subordinated in the same manner as a judgment lien on real property may be released or subordinated.

(f) In counties with a population of 6,000,000 or more, the board of supervisors may delegate the hearing required by subdivision (a), prior to abatement of a public nuisance, to a hearing board designated by the board of supervisors. The hearing board shall make a written recommendation to the board of supervisors. The board of supervisors may adopt the recommendation without further notice of hearing, or may set the matter for a de novo hearing before the board of supervisors.

SEC. 2. Section 54960.1 of the Government Code is amended to read:

54960.1. (a) Any interested person may commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of Section 54953, 54954.2, or 54956 is null and void under this section. Nothing in this chapter shall be construed to prevent a legislative body from curing or correcting an action challenged pursuant to this section.

(b) Prior to any action being commenced pursuant to subdivision (a), the interested person shall make a demand of the legislative body to cure or correct the action alleged to have been taken in violation of Section 54953, 54954.2, or 54956. The demand shall be in writing and clearly describe the challenged action of the legislative

body and nature of the alleged violation. The written demand shall be made within 30 days from the date the action was taken. Within 30 days of receipt of the demand, the legislative body shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct or inform the demanding party in writing of its decision not to cure or correct the challenged action. If the legislative body takes no action within the 30-day period, the inaction shall be deemed a decision not to cure or correct the challenged action, and the 15-day period to commence the action described in subdivision (a) shall commence to run the day after the 30-day period to cure or correct expires. Within 15 days of receipt of the written notice of the legislative body's decision to cure or correct, the expiration of the 30-day period to cure or correct, or not to cure or correct, within 15 days of or within 75 days from the date the challenged action was taken, whichever is earlier, the demanding party shall be required to commence the action pursuant to subdivision (a) or thereafter be barred from commencing the action.

(c) An action taken shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in substantial compliance with Sections 54953, 54954.2, and 54956.

(2) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement thereto.

(3) The action taken gave rise to a contractual obligation, including a contract let by competitive bid, upon which a party has, in good faith, detrimentally relied.

(4) The action taken was in connection with the collection of any tax.

(d) During any action seeking a judicial determination pursuant to subdivision (a) if the court determines, pursuant to a showing by the legislative body that an action alleged to have been taken in violation of Section 54953, 54954.2, or 54956 has been cured or corrected by a subsequent action of the legislative body, the action filed pursuant to subdivision (a) shall be dismissed with prejudice.

(e) The fact that a legislative body takes a subsequent action to cure or correct an action taken pursuant to this section shall not be construed or admissible as evidence of a violation of this chapter.

SEC. 3. Section 56331 of the Government Code is amended to read:

56331. When appointing a public member pursuant to Sections 56325, 56326, 56329, and 56330, the commission may also appoint one alternate public member who may serve and vote in place of a regular public member who is absent or who disqualifies himself or herself from participating in a meeting of the commission.

If the office of a regular public member becomes vacant, the alternate member may serve and vote in place of the former regular public member until the appointment and qualification of a regular public member to fill the vacancy.

SEC. 4. Section 56331.3 is added to the Government Code, to read:

56331.3. If two or more members are absent or disqualify themselves from participating in a meeting of the commission, any alternate member who is authorized to serve and vote in the place of a member shall only have one vote.

SEC. 5. Section 56377.5 of the Government Code is amended and renumbered to read:

56375.5. Every determination made by a commission regarding the matters provided for by subdivisions (a), (o), and (p) of Section 56375 shall be consistent with the spheres of influence of the local agencies affected by those determinations.

SEC. 6. Section 56379 of the Government Code is amended to read:

56379. Any person may, prior to any meeting, request the commission to cause a stenographic or electromagnetic record to be made of a meeting. If the cost of making that record is borne by that person, the commission shall cause the record to be made. The commission may require any person requesting the record to be made to deposit the estimated cost of making the record with the commission prior to the hearing.

SEC. 7. Section 56853 of the Government Code is amended to read:

56853. The executive officer shall mail a copy of the resolution adopted by the commission making determinations addressed to each of the following persons or entities:

(a) The chief petitioners, if any, where the proceedings for change of organization were initiated by petition.

(b) Each affected local agency whose boundaries would be changed by the proposal.

(c) The conducting authority, by certified mail, return receipt requested. The copy of the resolution mailed to the conducting authority shall be certified as a true and correct copy by the executive officer.

SEC. 8. Section 57078 of the Government Code is amended to read:

57078. In the case of any reorganization or change of organization, a majority protest shall be deemed to exist and the proposed change of organization or reorganization shall be abandoned if the conducting authority finds that written protests filed and not withdrawn prior to the conclusion of the hearing represent any of the following:

(a) In the case of uninhabited territory, landowners owning 50 percent or more of the assessed value of the land within the territory.

(b) In the case of inhabited territory, 50 percent or more of the voters residing in the territory.

(c) In the case of a landowner-voter district, 50 percent or more of the voting power of the voters entitled to vote as a result of owning land within the district.

SEC. 9. Section 57176 of the Government Code is amended to read:

57176. The conducting authority shall adopt a resolution confirming the order of the change of organization or reorganization if a majority of votes cast upon the question are in favor of the change of organization or reorganization in any of the following circumstances:

(a) At an election called in the territory ordered to be organized or reorganized.

(b) At an election called within the territory ordered to be organized or reorganized and within the territory of the affected agency. The clerk of the conducting authority shall cause a copy of the resolution confirming the order of organization or reorganization to be filed with the executive officer.

(c) At both an election called within the area to be organized or reorganized and an election called within the territory of an affected city, when required by the commission pursuant to Section 56850.

SEC. 10. Section 61601.10 of the Government Code is amended to read:

61601.10. In addition to the powers which may be exercised pursuant to Section 61600, whenever the Board of Directors of the El Dorado Hills Community Services District, the Salton Community Services District, or the Big River Community Services District determines by resolution, entered in the minutes, that it is feasible, economically sound, and in the public interest, and if a majority of the voters voting on the proposition vote in favor of the adoption of the additional purpose pursuant to Section 61601, the district may enforce the covenants, conditions, and restrictions adopted for each tract within the boundaries of the district, and assume the duties of the architectural control committee for each tract within the boundaries of the district and for other tracts as may be annexed from time to time, for the purpose of maintaining uniform standards of development within the district as adopted in the covenants, conditions, and restrictions. However, the district shall exercise the duties of an architectural control committee for any tract only to the extent authorized by the covenants, conditions, and restrictions applicable to the tract.

The power to carry on that activity may be divested in the same manner as the power was acquired.

For the purposes of this section, "tract" means any parcel of land for which the county has authorized development.

SEC. 11. Section 4739.5 is added to the Health and Safety Code, to read:

4739.5. By resolution, the board may change the name of the district. The change of name shall be effective upon the filing of a certified copy of the resolution with the Secretary of State and recording a certified copy in the office of the county recorder of the county or counties in which the district is situated.

SEC. 12. Section 5473.4 of the Health and Safety Code is amended

to read:

5473.4. On or before August 10 of each year following the final determination upon each charge, the clerk shall file with the auditor a copy of the report prepared pursuant to Section 5473 with a statement endorsed on the report over his or her signature that the report has been finally adopted by the legislative body of the entity and the auditor shall enter the amounts of the charges against the respective lots or parcels of land as they appear on the current assessment roll. Where any of the parcels are outside the boundaries of the entity they shall be added to the assessment roll of the entity for the purpose of collecting the charges. If the property is not described on the roll, the auditor may enter the description on the roll together with the amounts of the charges, as shown in the report.

SEC. 13. Section 20398 of the Public Contract Code is repealed.

SEC. 14. Section 22010 of the Public Contract Code is amended to read:

22010. There is hereby created the California Uniform Construction Cost Accounting Commission. The commission is comprised of 14 members.

(a) Thirteen of the members shall be appointed by the Controller as follows:

(1) Two members who shall each have at least 10 years of experience with, or providing professional services to, a general contracting firm engaged, during that period, in public works construction in California.

(2) Two members who shall each have at least 10 years of experience with, or providing professional services to, a firm or firms engaged, during that period, in subcontracting for public works construction in California.

(3) Two members who shall each be a member in good standing of, or have provided professional services to, an organized labor union with at least 10 years of experience in public works construction in California.

(4) Seven members who shall each be experienced in, and knowledgeable of, public works construction under contracts let by public agencies; two each representing cities, counties, respectively, and two representing school districts (one with an average daily attendance over 25,000 and one with an average daily attendance under 25,000), and one member representing a special district. At least one of the two county representatives shall be a county auditor or his or her designee.

(b) The member of the Contractors' State License Board who is a general engineering contractor as that term is defined in Section 7056 of the Business and Professions Code shall serve as an ex officio voting member. He or she shall become a member of the commission when the first vacancy occurs in an office of one of the members under paragraph (1) of subdivision (a).

SEC. 15. Section 1188 is added to the Streets and Highways Code, to read:

1188. The board shall cause the highway work provided for in this article to be done in accordance with the provisions of Sections 20391 to 20395, inclusive, of the Public Contracts Code, except that the notice calling for bids shall be published in a newspaper published in the division if there is such a newspaper. The successful bidder shall deposit a bond in the amount the board requires, conditioned on the faithful performance of the contract and on the payment for all labor employed and all material used in the work.

SEC. 16. Section 50705 of the Water Code is amended to read:

50705. The polls shall be kept open from 10 a.m. of the day of election until 4 p.m. Where the real property in the district is assessed to 500 or more different individual, joint, or corporate owners, the board may elect to keep the polls open from 7 a.m. of the day of election until 7 p.m. and in that event shall include the time of polling in the notice as provided in Section 50732. However, when the board holds an election which does not involve added costs to any other local governmental entity, the board may elect to keep the polls open from 7 a.m. of the day of election until 8 p.m. and in that event shall include the time of polling in the notice as provided in Section 50732.

SEC. 17. Section 66 of the Fairfield-Suisun Sewer District Act (Chapter 303, Statutes of 1951), is amended to read:

Sec. 66. All contracts for the construction of any unit of work shall be governed by Sections 22032 to 22039, inclusive, contained in Article 3 (commencing with Section 21200) of Chapter 2 of Part 3 of Division 2 of the Public Contract Code.

SEC. 18. The Legislature finds and declares that the Big River Community Services District has a special need to exercise the powers set forth in this act. The Legislature further finds and declares that this need is not common to all districts formed under the Community Services District Law. It is, therefore, hereby declared that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution, and that the enactment of this act as a special law, is necessary for the solution of problems existing in the Big River Community Services District.

SEC. 19. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 20. No reimbursement is required by this act because of the amendment made to Section 5473.4 of the Health and Safety Code 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 required legislative authority to carry out the program specified in this act.

CHAPTER 1328

An act to amend Section 14035 of the Government Code, and to add Sections 103357, 103358, 103359, 103360, 103361, and 103362 to the Public Utilities Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987.]

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

SECTION 1. The Counties of San Mateo and Santa Clara and the City and County of San Francisco may enter into a joint powers agreement pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code to create a joint powers agency which may be known as the Peninsula Corridor Study Joint Powers Board.

SEC. 2. The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the Transportation Planning and Development Account in the State Transportation Fund to the Department of Transportation for allocation to the San Mateo County Transit District in order to help establish the Peninsula Corridor Study Joint Powers Board created pursuant to Section 1 of this act, and to conduct any planning, environmental, or right-of-way activities in preparation for the board or its successor to operate, manage, and maintain the San Francisco Peninsula commuter rail service beginning on July 1, 1990. The district shall be the financial manager and trustee of these funds and shall allocate them to the joint powers agency created pursuant to Section 1 of this act, or its successor, to cover the costs of organizing and forming the agency. Any of these funds which have not been encumbered by the agency within two years of the operative date of this act shall revert to the Transportation Planning and Development Account of the State Transportation Fund.

SEC. 3. Section 14035 of the Government Code is amended to read:

14035. (a) The department may enter into contracts with the National Railroad Passenger Corporation under Section 403(b) of the Rail Passenger Service Act of 1970 (45 U.S.C. Sec. 563(b)) to provide commuter and intercity passenger rail services. The contracts may include, but are not limited to, the extension of intercity passenger rail services or the upgrading of commuter rail services.

(b) The department may contract with railroad corporations for the use of tracks and other facilities and the provision of passenger services on terms and conditions as the parties may agree.

(c) The department is the only public agency eligible to receive

funds pursuant to Section 1614 of Title 49 of the United States Code.

(d) The department may construct, acquire, or lease and improve and operate rail passenger terminals and related facilities which provide intermodal passenger services along the following corridors: the San Diego-Los Angeles corridor, the San Francisco Peninsula commute corridor, the Los Angeles-Oxnard corridor, the San Bernardino-Riverside-Los Angeles corridor, the San Jose-Oakland-Sacramento-Reno corridor, the Los Angeles-Bakersfield-Fresno-Stockton-Sacramento-Oakland corridor, and the Los Angeles-Santa Barbara-Oakland-Davis-Redding corridor.

(e) The department may enter into a contract with the National Railroad Passenger Corporation to provide an additional third train over the San Joaquin route running between Bakersfield and Oakland and to extend the existing route to Sacramento.

SEC. 3.5. Section 103357 is added to the Public Utilities Code, to read:

103357. (a) The district may issue bonds payable from the proceeds of the retail transactions and use tax.

(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 term of the bonds.

SEC. 4. Section 103358 is added to the Public Utilities Code, to read:

103358. (a) The bonds may be issued by the district 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 retail transactions and use tax or any other funds or assets of the district as may be specified by the district.

(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.

(c) A pledge by or to the district of tax receipts, revenues, moneys, accounts, accounts receivable, contract rights, and other rights to payment of whatever kind made by or to the district shall be valid and binding from the time the pledge is made for the benefit of pledgees and successors thereto. The tax receipts, revenues, moneys, accounts, accounts receivable, contract rights, and other rights to payment of whatever kind pledged by or to the district or the assignees shall immediately be subject to the lien of the pledge without physical delivery or further act. The lien of the pledge shall be valid and binding against all parties, regardless of whether the parties have notice of the claim. The indenture, trust agreement, resolution, or another instrument by which the pledge is created

need not be recorded.

SEC. 5. Section 103359 is added to the Public Utilities Code, to read:

103359. The district 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. In connection with the issuance of bonds, the district may enter into any agreement for liquidity or credit enhancement that may be necessary or desirable, as determined by the district.

SEC. 6. Section 103360 is added to the Public Utilities Code, to read:

103360. (a) Limited tax bonds shall be issued pursuant to a resolution adopted at any time, and from time to time, by the district by a two-thirds vote of all members of the board of the district.

(b) The district 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 Section 103282, which shall constitute an "enterprise" within the meaning of Section 54309 of the Government Code, and the proceeds of the retail transactions and use tax shall constitute "revenues" within the meaning of Section 54315 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 set forth in subdivision (b) of Section 54402 and in Sections 54403 and 54418 of the Government Code do not apply to the issuance and sale of bonds pursuant to this article. Instead, the district shall authorize the issuance of bonds by resolution, which resolution shall specify all of the following:

(1) The purposes for which the bonds are to be issued, which may be general.

(2) The maximum principal amount of the bonds.

(3) The maximum term for the bonds.

(4) The maximum rate of interest to be payable upon the bonds, which shall not exceed the maximum rate permitted for bonds of the district 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 district 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 on 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.

(5) The maximum discount or premium on the sale of bonds. The bonds may be sold at less or more than the principal amount thereof

in the manner and to the extent determined by the district.

(c) For purposes of the issuance and sale of bonds pursuant to this article, the following definitions are applicable to the Revenue Bond Law of 1941:

(1) "Resolution" means, unless the context otherwise requires, the instrument providing the terms and conditions for the issuance of the limited tax bonds, and may be an indenture, resolution, ordinance, order, agreement, or other instrument in writing.

(2) "Fiscal agent" means any fiscal agent, trustee, paying agent, depository, or other fiduciary provided for in the resolution authorizing the issuance of the bonds, which fiscal agent may be located within or without the state.

(d) 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.

SEC. 7. Section 103361 is added to the Public Utilities Code, to read:

103361. Any bonds issued pursuant to this article are legal instruments 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 investment and shall be controlling as the latest expression of the Legislature with respect thereto.

SEC. 8. Section 103362 is added to the Public Utilities Code, to read:

103362. This article provides a complete, additional, and alternative method for doing what is authorized by this article and shall be regarded as supplemental and additional to the powers conferred by any other laws. The issuance of bonds and the entering into any credit reimbursement or other agreement under this article need not comply with the requirements of any other law applicable to the district or the issuance of bonds or the incurring of indebtedness. Bonds issued by the district prior to the effective date of the act which enacted this section which were subject to investigation, reports, and approval or certification by the Treasurer pursuant to the District Securities Investigation Law of 1965 (Chapter 2.5 (commencing with Section 58750) of Division 2 of Title 6 of the Government Code), and the Districts Securities Law (Chapter 1 (commencing with Section 20000) of Division 10 of the

Water Code) prior to the adoption of this article shall continue to be subject to those investigations, reports, and approvals or certification.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure adequate rail service in the San Joaquin Valley where demand for this service has steadily increased in recent years, to ensure a timely and orderly transition of the responsibility for operation and management of the San Francisco Peninsula commuter rail service from the Department of Transportation to the joint powers agency created pursuant to this act, and in order that the San Mateo County Transit District may issue limited obligation bonds to finance its capital expenditure program as soon as possible, it is necessary that this act take effect immediately as an urgency statute.

CHAPTER 1329

An act to add and repeal Sections 8051.1, 8051.2, and 9056 of the Fish and Game Code, relating to sea urchins, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 8051.1 is added to the Fish and Game Code, to read:

8051.1. (a) Every person who is required to pay a landing tax for sea urchins pursuant to Sections 8041 and 8042 shall pay, in addition to the landing taxes determined in accordance with the schedule in Section 8051, an additional landing tax of one-half cent ($0.005) for each pound, or fraction thereof, of sea urchins, determined as provided in Section 8042. The money collected by the department from the additional landing tax pursuant to this section shall be deposited in the Fish and Game Preservation Fund to reimburse the fund for the appropriation made in subdivision (c). Collection of the additional landing tax pursuant to subdivision (a) shall begin on the first day of the second month following the operative date of the statute adding this section.

(b) The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the Fish and Game Preservation Fund to the department for expenditure without regard to fiscal years for the purposes of Section 9056.

(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 8051.2 is added to the Fish and Game Code, to read:

8051.2. (a) After the first one hundred fifty thousand dollars ($150,000) collected according to subdivision (a) of Section 8051.1 is expended on the study mandated by Section 9056, one-quarter cent ($0.0025) of the landing tax shall be deposited in the Fish and Game Preservation Fund and one-quarter cent ($0.0¼) shall be deposited in the Sea Urchin Resource Enhancement Account, which is hereby created in the Fish and Game Preservation Fund, to be used in support of the recommendations of the committee established by subdivision (b) of this section and other sea urchin resource enhancement measures as provided in the annual Budget Act.

(b) A Commercial Sea Urchin Advisory Committee shall be established consisting of 10 members selected by the director. One member shall be chosen from the personnel of the department. Eight members shall be selected, with alternates, from nominations submitted by sea urchin fishermen and processors and by associations representing the commercial sea urchin industry of California. Four of the industry members shall be from northern California, two representing divers and two representing processors, and four shall be from southern California, two representing divers and two representing processors. The area marine coordinator from the University of California at Davis shall be the other member.

From the money available in the Sea Urchin Resource Enhancement Fund after the one hundred fifty thousand dollars ($150,000) used for the study mandated by Section 9056, the committee may annually submit to the department a program and budget for the special account. The department, after conducting a public review and discussion shall incorporate all or part of the program and budget recommendations in its submittal to the Governor's Budget.

(c) The department shall submit to the Legislature a biennial report, the first one to be submitted in January of 1990, on the state of the Sea Urchin Resource Enhancement Account, a status of programs funded from the account, and program recommendations of the department. The report shall also include any program recommendations from the advisory committee, any program recommendations for expenditure, and the department's comments as recommended to the Governor.

(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. 3. Section 9056 is added to the Fish and Game Code, to read:

9056. The Department of Fish and Game shall study or contract for a study to determine the health of the sea urchin fishery in state waters in both northern and southern California, including, but not limited to, population levels and methods and costs of restoration,

including what size limits, if any, need to be imposed to protect the resource. The study shall be performed in in consultation with the advisory committee.

The department shall prepare a report of its findings and recommendations for enhancement of the sea urchin resource to the Legislature on or before January 1, 1991.

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. 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 complete the study required by this act and to preserve the sea urchin resource during the study period and to carry out the other provisions of this act at the earliest opportunity, it is necessary that this act take effect immediately.

CHAPTER 1330

An act to amend Section 26750 of, and to add Section 26746 to, the Government Code, relating to courts.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 26746 is added to the Government Code, to read:

26746. In addition to any other fees required by law, a processing fee of five dollars ($5) shall be assessed for each disbursement of money collected under a writ of attachment, execution, possession, or sale, but excluding any action by the district attorney's office for the establishment or enforcement of a child support obligation. The fee shall be collected from the judgment debtor in addition to, and in the same manner as, the moneys collected under the writ. All proceeds of this fee shall be deposited in a special fund in the county treasury. A separate accounting of funds deposited shall be maintained for each depositor, and funds deposited shall be for the exclusive use of the depositor.

Seventy percent of the moneys in the special fund shall be expended to supplement the county's cost for vehicle fleet replacement and equipment for the sheriff and the marshal. Thirty percent of the moneys in the special fund shall be expended to supplement the county's cost of vehicle and equipment maintenance for the sheriff and the marshal, and for the county's expenses in administering the funds.

No fee shall be charged where the only disbursement is the return of the judgment creditor's deposit for costs.

SEC. 2. Section 26750 of the Government Code, as amended by Chapter 328 of the Statutes of 1987, 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 the levy is twenty dollars ($20).

(b) Except as provided in Section 26746, 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.

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.

CHAPTER 1331

An act to add Section 155.8 to the Streets and Highways Code, relating to transportation, and making an appropriation therefor.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 155.8 is added to the Streets and Highways Code, to read:

155.8. (a) The department shall develop contract specifications to conduct a statewide study of technically feasible and available cost-effective means to reduce four- and five-axle truck traffic from congested urban freeways during commute hours. The department shall contract with a qualified consultant for performance of the study and the preparation of the final report and recommendations which shall be transmitted to the Legislature on or before January 1, 1989. The study shall focus on and include the following elements:

(1) The effect of changing traffic management techniques on commuters, employees, employers, producers and receivers of shipments by truck, and trucking companies. The study shall include an economic evaluation of the impact on each group.

(2) What changes are required, if any, in the shipping and receiving practices of businesses to implement a truck-oriented traffic reduction program. An economic impact analysis of each

recommended change shall be provided.

(3) Identification of grid-lock routes and feasible alternative routes which could be utilized for demonstration projects. The alternative routes shall identify the impact, if any, of rerouting truck traffic through surrounding areas which are outside the specific congested demonstration project area.

(4) Analysis of the potential for reducing truck-related accidents during peak hour traffic by controlling or rerouting truck traffic.

(b) It is the purpose of this study to address the problem of urban grid-lock in California and to evaluate the economic impact of traffic improvement techniques.

(c) It is not the intent of the Legislature to prohibit or otherwise restrict the department or local governments from proceeding with truck restrictions, prohibitions, or reroutings if those are feasible pending the outcome of the study.

SEC. 2. The sum of three hundred thousand dollars ($300,000) is hereby appropriated from the State Highway Account in the State Transportation Fund to the Department of Transportation for the purposes of Section 155.8 of the Streets and Highways Code.

CHAPTER 1332

An act to add Article 5.5 (commencing with Section 8589.8) to Chapter 7 of Division 1 of Title 2 of the Government Code, relating to fire equipment, and making an appropriation therefor.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987]

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

SECTION 1. Article 5.5 (commencing with Section 8589.8) is added to Chapter 7 of Division 1 of Title 2 of the Government Code, to read:

Article 5.5. State Assistance for Fire Equipment Act

8589.8. This article shall be known and may be cited as the State Assistance for Fire Equipment Act.

8589.9. The Legislature finds and declares that there is a growing need to find new ways to acquire firefighting apparatus and equipment for use by local agencies. Local agencies, particularly those which serve rural areas, have had and are likely to continue to have, difficulty acquiring firefighting apparatus and equipment. The Legislature further finds and declares that this situation presents a statewide problem for the protection of the public safety.

In enacting this article, the Legislature intends to create new ways for the Office of Emergency Services to help local agencies acquire

firefighting apparatus and equipment. Through the identification of available apparatus and equipment, the acquisition of new and used apparatus and equipment, the refurbishing and resale of used apparatus and equipment, and assisting the financing of resales, the Office of Emergency Services will help local agencies meet public safety needs.

8589.10. As used in this article:

(a) "Acquire" means acquisition by purchase, grant, gift, or any other lawful means.

(b) "Director" means the Director of the Office of Emergency Services.

(c) "Firefighting apparatus and equipment" means any vehicle and its associated equipment which is designed and intended for use primarily for firefighting. "Firefighting apparatus and equipment" does not include vehicles which are designed and intended for use primarily for emergency medical services, rescue services, communications and command operations, or hazardous materials operations.

(d) "Indirect expenses" means those items which are identified as indirect costs in the federal Office of Management and Budget Circular A-87 on January 1, 1985.

(e) "Local agency" means any city, county, special district, or any joint powers agency composed exclusively of those agencies, which provides fire suppression services. "Local agency" also includes a fire company organized pursuant to Part 4 (commencing with Section 14825) of Division 12 of the Health and Safety Code.

(f) "Office" means the Office of Emergency Services.

(g) "Rural area" means territory which is outside of any urbanized area designated by the United States Bureau of the Census from the 1980 federal census.

8589.11. The office may acquire new or used firefighting apparatus and equipment for resale to local agencies. If the apparatus or equipment is in a used condition, the office may contract with the Prison Industry Authority to repair or refurbish the apparatus or equipment to acceptable fire service standards before resale. The resale price shall recover the office's cost of acquisition, repairing, refurbishing, and associated indirect expenses.

8589.12. If a state agency, including the office, proposes to make firefighting apparatus or equipment which is currently owned and operated by the state available to the office for use under this article, the Department of General Services shall determine whether there is any immediate need by any state agency for the apparatus or equipment. If there is no immediate need, the Department of General Services shall release the apparatus or equipment to the office. If the office acquires firefighting apparatus or equipment from another state agency, the office shall pay the fair market value of the apparatus or equipment, as determined by the Department of General Services, unless the agency agrees to a lesser payment.

8589.13. (a) The office may contract with a local agency which

serves a rural area for the resale of new or used firefighting apparatus and equipment.

(b) If the contract provides for the local agency to pay the resale price in more than one installment, the local agency shall pay interest at a rate specified in the contract, which shall not exceed 1 percent less than the rate earned by the Pooled Money Investment Board. The term of a contract for resale shall not exceed five years.

(c) If the contract provides for the local agency to obtain another loan from another source, the office may insure the other loan.

8589.14. The office shall operate an information system which is capable of identifying firefighting apparatus and equipment which is available for acquisition, and local agencies which are interested in acquiring apparatus and equipment.

8589.15. The office may contract with the Prison Industry Authority to perform any of the responsibilities or services required or authorized by this article.

8589.16. There is hereby created in the General Fund the State Assistance for Fire Equipment Account, which, notwithstanding Section 13340, is continuously appropriated to the office for the purposes of Sections 8589.11 and 8589.13. All proceeds from the resale of firefighting apparatus and equipment shall be paid to the account. The office shall manage the account so that it is self-sustaining by the 1992–93 fiscal year.

8589.17. Every contract with a local agency for the resale of firefighting apparatus and equipment shall specify that the local agency shall make the apparatus or equipment available to other local agencies in the same county as part of a mutual aid agreement. The apparatus or equipment shall be available for mutual aid responses for the length of the term of the contract with the office.

8589.18. If a local agency defaults on a contract for the resale of firefighting apparatus and equipment, the office may either renegotiate the contract or take possession of the apparatus or equipment for subsequent resale to another local agency.

8589.19. (a) After consultation with the Office of Emergency Services Fire Advisory Committee, the director shall adopt rules and regulations governing the operation of the programs created by this article pursuant to the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3.

(b) The rules and regulations adopted pursuant to subdivision (a) shall include, but not be limited to, all of the following:

(1) The specific types of firefighting apparatus and equipment which may be acquired, rehabilitated, and resold.

(2) The amount and terms of resale contracts.

(3) The time, format, and manner in which local agencies may apply for resale contracts.

(4) Priorities for assisting local agencies which shall give preference to local agencies which meet all of the following:

(A) Demonstrated need for primary response firefighting apparatus and equipment.

(B) Will be adequately able to operate and maintain the firefighting apparatus and equipment.

(C) Have already used other means of financing the firefighting apparatus and equipment.

8589.20. All state agencies, boards, and commissions shall cooperate with the office in implementing the programs created by this article.

8589.21. The director shall be responsible for the programs created by this article which, except as provided by Sections 8589.12 and 8589.15, shall not be subject to the requirements of the State Equipment Council or the Office of Fleet Administration of the Department of General Services.

8589.22. The director shall report to the Legislature every two years, commencing January 1, 1990, regarding the status of the programs created by this article.

SEC. 2. The sum of two hundred twenty-five thousand dollars ($225,000) is hereby appropriated from the Disaster Response-Emergency Operations Account in the Reserve for Economic Uncertainties to the State Assistance for Fire Equipment Account established pursuant to Section 8589.16 of the Government Code, as added by this act.

CHAPTER 1333

An act to add Section 5354 to the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 5354 is added to the Elections Code, to read:

5354. Notwithstanding any other provision of law, any person may engage in good faith bargaining between competing interests to secure legislative approval of matters embraced in a state or local initiative or referendum measure, and the proponents may, as a result of such negotiations, withdraw the measure at any time before filing the petition with the county clerk or registrar. Withdrawal shall be effective upon receipt by the Secretary of State of a written notice of withdrawal signed by all proponents of the measure.

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 enable and encourage individuals to engage in the activities described in this act and in order to clarify the law without undue delay, it is necessary that this act take effect immediately.

CHAPTER 1334

An act to amend Section 13518 of, and to add Section 13518.1 to, the Penal Code, relating to emergency medical services.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987]

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

SECTION 1. Section 13518 of the Penal Code is amended to read:

13518. (a) Every city police officer, sheriff, deputy sheriff, marshal, deputy marshal, peace officer member of the California State Police, peace officer member of the California Highway Patrol, and police officer of a district authorized by statute to maintain a police department, except those whose duties are primarily clerical or administrative, shall meet the training standards prescribed by the Emergency Medical Services Authority for the administration of first aid and cardiopulmonary resuscitation. This training shall include instruction in the use of a portable manual mask and airway assembly designed to prevent the spread of communicable diseases. In addition, satisfactory completion of periodic refresher training or appropriate testing in cardiopulmonary resuscitation and other first aid as prescribed by the Emergency Medical Services Authority shall also be required.

(b) The course of training leading to the basic certificate issued by the commission shall include adequate instruction in the procedures described in subdivision (a). No reimbursement shall be made to local agencies based on attendance at any such course which does not comply with the requirements of this subdivision.

(c) As used in this section, "primarily clerical or administrative" means the performance of clerical or administrative duties for a minimum of 90 percent of the time worked within a pay period.

SEC. 2. Section 13518.1 is added to the Penal Code, to read:

13518.1. In order to prevent the spread of communicable disease, every law enforcement agency employing peace officers described in subdivision (a) of Section 13518 shall provide to each of these peace officers an appropriate portable manual mask and airway assembly for use when applying cardiopulmonary resuscitation.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars

($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1335

An act to amend Section 9 of Chapter 1519 of the Statutes of 1986, relating to correctional facilities, and making an appropriation therefor.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 9 of Chapter 1519 of the Statutes of 1986 is amended to read:

Sec. 9. (a) The Department of the Youth Authority shall allocate funds for juvenile facilities derived from the County Correctional Facilities Capital Expenditure Bond Act of 1986 as provided by this section. The allocation shall be completed before March 1, 1988.

(b) Except as provided in subdivision (d), funds allocated under this section shall be expended for the following purposes, based on current juvenile overcrowding or significant health and safety deficiencies, as noted in the most recent annual California Youth Authority inspection report:

(1) To relieve juvenile facilities overcrowding.

(2) To remedy fire and life and safety deficiencies in juvenile facilities.

(3) For performance of deferred maintenance.

(c) In order to be eligible for funding under this section, a county shall comply with standards for maximum use of alternatives to incarceration and adequate facilities for mentally ill detained minors and minors detained because of intoxication adopted by the board under Section 5.5.

The Department of the Youth Authority shall make findings of project eligibility which shall be based upon the standards adopted by the board.

(d) Two million five hundred thousand dollars ($2,500,000) of the funds allocated under this section shall be reserved for the following counties: Alpine, Amador, Calaveras, Colusa, Glenn, Inyo, Lassen, Mariposa, Modoc, Mono, Plumas, San Benito, Sierra, Trinity, and Tuolumne. The requirement set forth in subdivision (g) and in subdivision (a) of Section 7, that a county match in the minimum of 25 percent of total project costs, shall apply to the aforementioned counties.

The funds shall be distributed on a per capita basis for the construction or development of county juvenile facilities, secure detention alternatives, or development of secure facilities within

existing nonadult facilities. Any unencumbered funds shall revert to the Department of the Youth Authority for distribution on a pro rata basis to all counties eligible under this subdivision.

(e) The balance of the funds allocated under this section shall be available for construction of county juvenile facilities in the counties other than those specified in subdivision (d) provided that the maximum allocation for any of the counties eligible under this subdivision shall not exceed that county's per capita share of available funds. To the extent that any county eligible under this subdivision does not apply for funds under this section or is declared ineligible, the allocation limit for the remaining counties shall be increased according to a pro rata formula.

(f) An application for funds shall be made by a county in the manner and form prescribed by the Department of the Youth Authority. A county shall submit a needs assessment documenting the need for and purpose of the proposed project.

(g) Expenditure shall be made only if county matching funds of 25 percent are provided.

(h) The Department of the Youth Authority shall report to the Legislature by July 1, 1988, on the status of funds expended and a complete listing of funds allocated to each county.

(i) The Department of the Youth Authority shall develop a statewide needs assessment which shall be completed before July 1, 1988.

SEC. 2. The sum of two hundred and fifty thousand dollars ($250,000) is hereby appropriated from the General Fund to the Department of the Youth Authority for allocation as a loan to the counties listed in subdivision (d) of Section 9 of Chapter 1519 of the Statutes of 1986 for the purposes set forth in subdivision (d). Any money allocated pursuant to this section shall be repaid within five years of the loan at an interest rate to be determined by the state. For counties which fail to make scheduled payments on any loan authorized under this section, the Department of the Youth Authority shall reduce annual payments to that county from the County Justice System Subvention Program by the appropriate amount.

CHAPTER 1336

An act to amend Section 2053 of, and to add Section 2024 to, the Business and Professions Code, and to amend Section 803 of the Penal Code, relating to business and professions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 2024 is added to the Business and Professions Code, to read:

2024. The board may select and contract with necessary medical consultants who are licensed physicians and surgeons to assist it in its programs. Subject to Section 19130 of the Government Code, the board may contract with these consultants on a sole source basis.

SEC. 2. Section 2053 of the Business and Professions Code is amended to read:

2053. Any person who willfully, under circumstances or conditions which cause or create risk of great bodily harm, serious physical or mental illness, or death, practices or attempts to practice, or advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person, without having at the time of so doing a valid, unrevoked and unsuspended certificate as provided in this chapter, or without being authorized to perform that act pursuant to a certificate obtained in accordance with some other provision of law, is punishable by imprisonment in the county jail for not exceeding one year or in the state prison.

The remedy provided in this section shall not preclude any other remedy provided by law.

SEC. 3. Section 803 of the Penal Code, as amended by Section 2 of Chapter 246 of the Statutes of 1987, is amended to read:

803. (a) Except as provided in this section, a limitation of time prescribed in this chapter is not tolled or extended for any reason.

(b) No time during which prosecution of the same person for the same conduct is pending in a court of this state is a part of a limitation of time prescribed in this chapter.

(c) A limitation of time prescribed in this chapter does not commence to run until discovery of an offense described in this subdivision. This subdivision applies to an offense punishable by imprisonment in the state prison, a material element of which is fraud or breach of a fiduciary obligation or the basis of which is misconduct in office by a public officer, employee, or appointee, including, but not limited to, the following offenses:

(1) Grand theft of any type, forgery, falsification of public records, or acceptance of a bribe by a public official or a public employee.

(2) A violation of Section 72, 118, 118a, 132, or 134.

(3) A violation of Section 25540, of any type, or 25541 of the Corporations Code.

(4) A violation of Section 1090 or 27443 of the Government Code.

(5) Felony welfare fraud or Medi-Cal fraud in violation of Section 11483 or 14107 of the Welfare and Institutions Code.

(6) A violation of Section 580, 581, 582, 583, or 584 of the Business and Professions Code.

(d) If the defendant is out of the state when or after the offense is committed, the prosecution may be commenced as provided in Section 804 within the limitations of time prescribed by this chapter, and no time up to a maximum of three years during which the defendant is not within the state shall be a part of those limitations.

(e) A limitation of time prescribed in this chapter does not commence to run until the offense has been discovered, or could have reasonably been discovered, with regard to offenses under Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.5 (commencing with Section 25100) of Division 20 or Part 4 (commencing with Section 41500) of Division 26 of the Health and Safety Code, or Section 386.

SEC. 3.5. Section 803 of the Penal Code, as amended by Section 2 of Chapter 246 of the Statutes of 1987, is amended to read:

803. (a) Except as provided in this section, a limitation of time prescribed in this chapter is not tolled or extended for any reason.

(b) No time during which prosecution of the same person for the same conduct is pending in a court of this state is a part of a limitation of time prescribed in this chapter.

(c) A limitation of time prescribed in this chapter does not commence to run until discovery of an offense described in this subdivision. This subdivision applies to an offense punishable by imprisonment in the state prison, a material element of which is fraud or breach of a fiduciary obligation or the basis of which is misconduct in office by a public officer, employee, or appointee, including, but not limited to, the following offenses:

(1) Grand theft of any type, forgery, falsification of public records, or acceptance of a bribe by a public official or a public employee.

(2) A violation of Section 72, 118, 118a, 132, or 134.

(3) A violation of Section 25540, of any type, or 25541 of the Corporations Code.

(4) A violation of Section 1090 or 27443 of the Government Code.

(5) Felony welfare fraud or Medi-Cal fraud in violation of Section 11483 or 14107 of the Welfare and Institutions Code.

(6) A violation of Section 580, 581, 582, 583, or 584 of the Business and Professions Code.

(7) A violation of Section 22430 of the Business and Professions Code.

(8) A violation of Section 10690 of the Health and Safety Code.

(9) A violation of Section 529a.

(d) If the defendant is out of the state when or after the offense is committed, the prosecution may be commenced as provided in Section 804 within the limitations of time prescribed by this chapter, and no time up to a maximum of three years during which the defendant is not within the state shall be a part of those limitations.

(e) A limitation of time prescribed in this chapter does not commence to run until the offense has been discovered, or could have reasonably been discovered, with regard to offenses under Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.5 (commencing with Section 25100) of Division 20 or Part 4 (commencing with Section 41500) of Division 26 of the Health and Safety Code, or Section 386.

SEC. 4.5. The amendment to Section 803 of the Penal Code made by this act shall not apply to any fraudulent acts discovered before the effective date of this act.

SEC. 5. Section 3.5 of this bill incorporates amendments to Section 803 of the Penal Code proposed by both this bill and SB 1590. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1988, but this bill becomes operative first, (2) each bill amends Section 803 of the Penal Code, and (3) this bill is enacted after SB 1590, in which case Section 803 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of SB 1590, at which time Section 3.5 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 amends existing law to specifically authorize the Board of Medical Quality Assurance to contract with medical consultants to assist it in its programs, to clarify provisions regarding certificates to practice medicine, and to ensure that certain licensing boards may more efficiently prosecute persons filing false or fraudulent applications for a license. In order to achieve its intended results, it is necessary that this act take effect immediately.

CHAPTER 1337

An act to add Article 11.6 (commencing with Section 25242.5) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

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

(a) The presence of hazardous waste in the state is a threat to public health and safety.

(b) There are cost-effective practices and technologies available to significantly reduce the volume and toxicity of hazardous waste generated in the state.

(c) Hazardous waste reduction has economic advantages to businesses, such as reducing waste disposal costs, long-term liability, and chemical costs.

(d) Small- and medium-sized businesses often lack access to information about current hazardous waste reduction requirements, and opportunities and methods for reducing the volume of hazardous waste which they generate.

(e) Small- and medium-sized businesses often lack access to information on the availability of onsite hazardous waste treatment systems and on how to modify their processes and operations to reduce hazardous waste generation.

(f) Many businesses may prefer to receive information and assistance from a nonregulatory body.

(g) A pilot project conducted by the University of California would determine the feasibility of a waste reduction internship program using student interns for technical assistance, research, and education.

SEC. 2. Article 11.6 (commencing with Section 25242.5) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 11.6. Hazardous Waste Reduction Internship Program

25242.5. The Legislature hereby requests the University of California to develop a hazardous waste reduction internship pilot program, except as provided in Section 25242.6, on or before June 1, 1988, which would place students in engineering, environmental sciences, or related subject areas in private businesses for the purpose of providing onsite assistance on hazardous waste reduction methods to small quantity generators. These students shall assist small businesses by conducting hazardous waste audits, assisting in preparing waste reduction plans, and providing information

concerning the hazardous waste laws and regulations as they apply to small quantity generators.

25242.6. The Legislature hereby requests the University of California to do all of the following:

(a) Attempt to secure funds from private foundations, industry, the federal government, or other souces for the costs of the program which the University of California is authorized to establish pursuant to this article.

(b) Notwithstanding Section 25242.5, if the funding specified in subdivision (a) is not available, the University of California is requested to instead conduct a study and submit a report to the Legislature on or before June 1, 1988, concerning the feasibility of establishing a hazardous waste reduction internship program, including an examination of similar existing programs in other states and whether such a program could be operated on a fee-for-service basis.

(c) Report to the Legislature on or before January 1, 1990, concerning the implementation of this article, including outreach strategies, number and type of businesses requesting assistance, number and type of businesses assisted and type of assistance provided, a summary of successes and problems with the pilot project, and the potential for expanding the program statewide.

CHAPTER 1338

An act to add Article 4 (commencing with Section 4660) to Chapter 9 of Division 4 of the Public Resources Code, relating to state forests.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Article 4 (commencing with Section 4660) is added to Chapter 9 of Division 4 of the Public Resources Code, to read:

Article 4. Soquel Demonstration State Forest

4660. It is hereby declared to be the policy of the state to establish and preserve an intensively managed, multifaceted research forest which is representative of forest activities as a living forest in Santa Cruz County within northern California's coastal redwood belt. The coast redwoods, as the dominant tree species in this area, are a valuable natural resource and are unique in North America for their beauty, abundance, diversity, and public accessibility, and their extreme beauty and economic value requires special measures for their protection for the use, enjoyment, and education of the public.

It is the intent of the Legislature, in establishing the Soquel Demonstration State Forest, to provide an environment that will do all of the following:

(a) Provide watershed protection for local communities and base-line monitoring and studies of the hazards, risks, and benefits of forest operations and watersheds to urban areas.

(b) Provide public education and examples illustrating compatible rural land uses, including sustained yield timber production, as well as the historic development of timbering and forestry machinery, within the context of local community protection and nearby pressures.

(c) Provide a resource for the public, environmental groups, elected officials, environmental planners, the educational community, and the media as an open environment for the inspection and study of environmental education, forestry practices, and effects thereof.

(d) Protect old growth redwood trees.

4661. The department may permit a limited amount of commercial timber operations on the property within the Soquel Demonstration State Forest in order to provide funds for the maintenance and operation of the state forest and to allow fulfillment of the objectives of Section 4660. Income from the state forest property shall sustain all costs of operation and provide income for research and educational purposes.

4662. The department is responsible for the development and establishing of the Soquel Demonstration State Forest and for ongoing maintenance and operations. The director shall appoint an advisory committee to assist the department in planning future management of the forest. The advisory committee shall include representatives of the Santa Cruz County Board of Supervisors, the Department of Parks and Recreation, the Board of Forestry, the Forest of Nicene Marks Advisory Committee, and the Department of Fish and Game.

4663. The department, in coordination with the advisory committee, shall adopt by January 1, 1989, a general plan for the state forest which reflects the long-range development and management plans to provide for the optimum use and enjoyment of the living forest, as provided in Section 4660, as well as the protection of its quality and the watershed within the Santa Cruz area. The general plan shall be approved by the advisory committee prior to adoption by the department.

4664. The duties and authority of the department pursuant to this article shall only arise if the state acquires the property comprising the Soquel Demonstration State Forest.

CHAPTER 1339

An act to add Section 714.5 to the Civil Code, to amend Sections 18035 and 18092.7 of, and to add Section 18035.4 to, the Health and Safety Code, and to amend Section 5832 of the Revenue and Taxation Code, relating to manufactured homes and mobilehomes.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 714.5 is added to the Civil Code, to read:

714.5. The covenants, conditions, and restrictions or other management documents shall not prohibit the sale, lease, rent, or use of real property on the basis that the structure intended for occupancy on the real property is constructed in an offsite facility or factory, and subsequently moved or transported in sections or modules to the real property. Nothing herein shall preclude the governing instruments from being uniformly applied to all structures subject to the covenants, conditions, and restrictions or other management documents.

This section shall apply to covenants, conditions, and restrictions or other management documents adopted on and after the effective date of this section.

SEC. 2. Section 18035 of the Health and Safety Code is amended to read:

18035. (a) For every sale by a dealer of a new or used manufactured home or mobilehome subject to registration under this part, the dealer shall execute in writing and obtain the buyer's signature on a purchase order, conditional sale contract, or other document evidencing the purchase contemporaneous with, or prior to, the receipt of any cash or cash equivalent from the buyer, shall establish an escrow account with an escrow agent, and shall cause to be deposited into that escrow account any cash or cash equivalent received at any time prior to the close of escrow as a deposit, downpayment, or whole or partial payment for the manufactured home or mobilehome or accessory thereto. The downpayment, or whole or partial payment, shall include an amount designated as a deposit, which may be less than, or equal to, the total amount placed in escrow, and shall be subject to the provisions of subdivision (f). The parties shall provide for escrow instructions which identify the fixed amounts of the deposit, downpayment, and balance due prior to closing consistent with the amounts set forth in the purchase documents and receipt for deposit if one is required by Section 18035.1. The deposits shall be made by the dealer within three working days of receipt, one of which shall be the day of receipt. For purposes of this section, "cash equivalent" means any property, other than cash. If an item of cash equivalent is, due to its size, incapable

of physical delivery to the escrow holder, the property may be held by the dealer for the purchaser until close of escrow and, if the property has been registered with the department or the Department of Motor Vehicles, its registration certificate and, if available, its certificate of title shall be delivered to the escrow holder.

(b) For every sale by a dealer of a new manufactured home or mobilehome, the escrow instructions shall provide all of the following:

(1) That the original manufacturer's certificate of origin be placed in escrow.

(2) That, in the alternative, either of the following shall occur:

(A) The lien of any inventory creditor on the manufactured home or mobilehome shall be satisfied by payment from the escrow account.

(B) The inventory creditor shall consent in writing to other than full payment.

For purposes of this paragraph, "inventory creditor" includes any person who is identified as a creditor on the manufacturer's certificate of origin or any person who places the original certificate of origin in escrow and claims in writing to the escrow agent to have a purchase money security interest in the manufactured home or mobilehome, as contemplated by Section 9107 of the Commercial Code.

(3) That the escrow agent shall obtain from the manufacturer a true and correct facsimile of the copy of the certificate of origin retained by the manufacturer pursuant to Section 18093.

(c) For every sale by a dealer of a used manufactured home or mobilehome, the escrow instructions shall provide:

(1) That the current registration card, all copies of the registration cards held by junior lienholders, and the certificate of title be placed in escrow.

(2) That, in the alternative, either of the following shall occur:

(A) (i) The registered owner shall acknowledge in writing the amount of the commission to be received by the dealer for the sale of the manufactured home or mobilehome, and (ii) the registered owner shall release all of its ownership interests in the manufactured home or mobilehome either contemporaneously upon the payment of a specified amount from the escrow account or at the close of the escrow where the buyer has executed a security agreement approved by the registered owner covering the unpaid balance of the purchase price.

(B) (i) The dealer shall declare in writing that the manufactured home or mobilehome is its inventory, (ii) the registered owner shall acknowledge in writing that the purchase price relating to the sale of the manufactured home or mobilehome to the dealer for resale has been paid in full by the dealer, (iii) the current certificate of title shall be appropriately executed by the registered owner to reflect the release of all of its ownership interests, and (iv) the dealer shall

release all of its ownership interests in the manufactured home or mobilehome either contemporaneously upon the payment of a specified amount from the escrow account or at the close of escrow where the buyer has executed a security agreement approved by the dealer covering the unpaid balance of the purchase price.

(3) That, in the alternative, the legal owner and each junior lienholder, respectively, shall either:

(A) Release his or her security interest or transfer its security interest to a designated third party contemporaneously upon the payment of a specified amount from the escrow account.

(B) Advise the escrow agent in writing that the new buyer or the buyer's stated designee shall be approved as the new registered owner upon the execution by the buyer of a formal assumption of the indebtedness secured by his or her lien approved by the creditor at or before the close of escrow.

(d) For every sale by a dealer of a used manufactured home or mobilehome:

(1) The dealer shall present the buyer's offer to purchase the manufactured home or mobilehome to the seller in written form signed by the buyer. The seller, upon accepting the offer to purchase, shall sign and date the form. Copies of the fully executed form shall be presented to both the buyer and seller, with the original copy retained by the dealer. Any portion of the form which reflects the commission charged by the dealer to the seller need not be disclosed to the buyer.

(2) The escrow agent, upon receipt of notification from the dealer that the seller has accepted the buyer's offer to purchase and receipt of mutually endorsed escrow instructions, shall, within three working days, prepare a notice of escrow opening on the form prescribed by the department and forward the completed form to the department with appropriate fees. If the escrow is canceled for any reason before closing, the escrow agent shall prepare a notice of escrow cancellation on the form prescribed by the department and forward the completed form to the department.

(3) (A) The escrow agent shall forward to the legal owner and each junior lienholder at their addresses shown on the current registration card a written demand for a lien status report, as contemplated by Section 18035.5, and a written demand for either an executed statement of conditional lien release or an executed statement of anticipated formal assumption, and shall enclose blank copies of a statement of conditional lien release and a statement of anticipated formal assumption on forms prescribed by the department. The statement of conditional lien release shall include, among other things, both of the following:

(i) A statement of the dollar amount or other conditions required by the creditor in order to release or transfer its lien.

(ii) The creditor's release or transfer of the lien in the manufactured home or mobilehome contingent upon the satisfaction of those conditions.

(B) The statement of anticipated formal assumption shall include, among other things, both of the following:

(i) A statement of the creditor's belief that the buyer will formally assume the indebtedness secured by its lien pursuant to terms and conditions which are acceptable to the creditor at or before the close of escrow.

(ii) The creditor's approval of the buyer or his or her designee as the registered owner upon the execution of the formal assumption.

(4) Within five days of the receipt of the written demand and documents required by paragraph (3), the legal owner or junior lienholder shall complete and execute either the statement of conditional lien release or, if the creditor has elected to consent to a formal assumption requested by a qualified buyer, the statement of anticipated formal assumption, as appropriate, and prepare the lien status report and forward the documents to the escrow agent by first-class mail. If the creditor is the legal owner, the certificate of ownership in an unexecuted form shall accompany the documents. If the creditor is a junior lienholder, the creditor's copy of the current registration card in an unexecuted form shall accompany the documents.

(5) If either of the following events occur, any statement of conditional lien release or statement of anticipated formal assumption executed by the creditor shall become inoperative, and the escrow agent shall thereupon return the form and the certificate of ownership or the copy of the current registration card, as appropriate, to the creditor by first-class mail:

(A) The conditions required in order for the creditor to release or transfer his or her lien are not satisfied before the end of the escrow period agreed upon in writing between the buyer and the seller or, if applicable, before the end of any extended escrow period as permitted by subdivision (g).

(B) The registered owner advises the creditor not to accept any satisfaction of his or her lien or not to permit any formal assumption of the indebtedness and the creditor or registered owner advises the escrow agent in writing accordingly.

(6) If a creditor willfully fails to comply with the requirements of paragraph (4) within 21 days of the receipt of the written demand and documents required by paragraph (3), the creditor shall forfeit to the escrow agent three hundred dollars ($300), except where the creditor has reasonable cause for noncompliance. The three hundred dollars ($300) shall be credited to the seller, unless otherwise provided in the escrow instructions. Any penalty paid by a creditor under this paragraph shall preclude any civil liability for noncompliance with Section 18035.5 relating to the same act or omission.

(e) The escrow instructions shall specify one of the following:

(1) Upon the buyer receiving delivery of an installed manufactured home or mobilehome on the site and the manufactured home or mobilehome passing inspection pursuant to

Section 18613 or after the manufactured home or mobilehome has been delivered to the location specified in the escrow instructions when the installation is to be performed by the buyer, all funds in the escrow account, other than escrow fees and amounts for accessories not yet delivered, shall be disbursed.

(2) Upon the buyer receiving delivery of an installed manufactured home or mobilehome not subject to the provisions of Section 18613 with delivery requirements as mutually agreed to and set forth in the sales documents, all funds in the escrow account, other than escrow fees, shall be disbursed.

(f) In the event any dispute arises between the parties to the escrow and upon notification in writing to the escrow agent, unless otherwise specified in the escrow instructions, all funds denoted as deposit shall be held in escrow until a release is signed by the disputing party, or pursuant to new written escrow instructions signed by the parties involved, or pursuant to a final order for payment or division by a court of competent jurisdiction. Any other funds, other than escrow fees, shall be returned to the buyer or any person, other than the dealer or seller, as appropriate.

(g) Escrow shall be for a period of time mutually agreed upon, in writing, by the buyer and the seller. However, the parties may, by mutual consent, extend the time, in writing, with notice to the escrow agent.

(h) No dealer or seller shall establish with an escrow agent any escrow account in an escrow company in which the dealer or seller has more than a 5-percent ownership interest.

(i) The escrow instructions may provide for the proration of any local property tax due or to become due on the manufactured home or mobilehome, and if the tax, or the license fee imposed pursuant to Section 18115, or the registration fee imposed pursuant to Section 18114, is delinquent, the instructions may provide for the payment of the taxes or fees, or both, and any applicable penalties.

(j) The escrow instructions shall provide that the payment of any fee, charge, dedication, or other form of requirement levied by a school district pursuant to Section 53080 of the Government Code be made to the appropriate school district upon the close of escrow, except where the school district has certified compliance with that fee, charge, dedication, or other form of requirement.

(k) No agreement shall contain any provision by which the buyer waives his or her rights under this section, and any waiver shall be deemed contrary to public policy and shall be void and unenforceable.

(*l*) If a portion of the amount in the escrow is for accessories, then that portion of the amount shall not be released until the accessories are actually installed.

(m) Upon opening escrow on a used manufactured home or mobilehome which is subject to local property taxation, and subject to registration under this part, the escrow officer may forward to the tax collector of the county in which the used manufactured home or

mobilehome is located, a written demand for a tax clearance certificate, if no liability exists, or a conditional tax clearance certificate if a tax liability exists, to be provided on a form prescribed by the office of Controller. The conditional tax clearance certificate shall state the amount of the tax liability due, if any, and the final date that amount may be paid out of the proceeds of escrow before a further tax liability may be incurred.

(1) Within five working days of receipt of the written demand for a conditional tax clearance certificate or a tax clearance certificate, the county tax collector shall forward the conditional tax clearance certificate or a tax clearance certificate showing no tax liability exists to the requesting escrow officer. In the event the tax clearance certificate's or conditional tax clearance certificate's final due date expires within 30 days of date of issuance, an additional conditional tax clearance certificate or a tax clearance certificate shall be completed which has a final due date of at least 30 days beyond the date of issuance.

(2) If the tax collector on which the written demand for a tax clearance certificate or a conditional tax clearance certificate was made fails to comply with that demand within 30 days from the date the demand was mailed, the escrow officer may close the escrow and submit a statement of facts certifying that the written demand was made on the tax collector and the tax collector failed to comply with that written demand within 30 days. This statement of facts may be accepted by the department in lieu of a conditional tax clearance certificate or a tax clearance certificate, as prescribed by subdivision (a) of Section 18092.7, or a tax clearance certificate and the transfer of ownership may be completed.

(3) The escrow officer may satisfy the terms of the conditional tax clearance certificate by paying the amount of tax liability shown on the form by the tax collector out of the proceeds of escrow on or before the date indicated on the form and by certifying in the space provided on the form that all terms and conditions of the conditional tax clearance certificate have been complied with.

(n) This section creates a civil cause of action against a buyer or dealer or other seller who violates this section, and upon prevailing, the plaintiff in the action shall be awarded actual damages, plus an amount not in excess of two thousand dollars ($2,000). In addition, attorney's fees and court costs shall also be awarded a plaintiff who prevails in the action.

SEC. 3. Section 18035.4 is added to the Health and Safety Code, to read:

18035.4. Sections 18035, 18035.1, and 18035.2 shall not apply to the sale of manufactured homes or mobilehomes to:

(a) The federal government.

(b) The state.

(c) Any agency or political subdivision of the state.

(d) Any city, county, or city and county.

SEC. 4. Section 18092.7 of the Health and Safety Code is amended

to read:

18092.7. (a) The department shall withhold the registration or transfer of registration of any manufactured home, mobilehome, or floating home, other than a new manufactured home, mobilehome, or floating home for which application is being made for an original registration, until the applicant presents a tax clearance certificate or a conditional tax clearance certificate issued pursuant to Section 2189.8 or 5832 of the Revenue and Taxation Code by the tax collector of the county where the manufactured home, mobilehome, or floating home is located. Any conditional tax clearance certificate presented shall indicate that the tax liability has been satisfied pursuant to paragraph (3) of subdivision (m) of Section 18035.

(b) In lieu of the tax clearance certificate or conditional tax clearance certificate required by subdivision (a), the department may accept a certification signed by the escrow officer under penalty of perjury that the tax collector of the county where the manufactured home is located has failed to respond to the written demand for a conditional tax clearance certificate as prescribed by subdivision (*l*) of Section 18035.

SEC. 5. Section 5832 of the Revenue and Taxation Code is amended to read:

5832. (a) Upon application, the county tax collector shall issue a tax clearance certificate or a conditional tax clearance certificate. Any tax clearance certificate issued shall be used to permit registration of used manufactured homes or mobilehomes and for any other purposes which may be prescribed by the Controller. The certificate may indicate that the county tax collector finds that no local property tax is due or is likely to become due, or that any applicable local property taxes have been paid or are to be paid in a manner not requiring the withholding of registration or the transfer of registration. Any conditional tax clearance certificate issued shall indicate that the county tax collector finds that a tax liability exists, the amount due, and the final date that amount may be paid before a further tax liability is incurred. The certificate shall be in such form as the Controller may prescribe, and shall be executed, issued, and accepted for clearance of registration or permit issuance on the conditions which the Controller may prescribe.

(b) Within five working days of receipt of the written demand for a conditional tax clearance certificate or tax clearance certificate, the county tax collector shall forward the conditional tax clearance certificate or tax clearance certificate, showing no tax liability exists, to the requesting escrow officer. In the event the final due date of the tax clearance certificate or conditional tax clearance certificate expires within 30 days of the date of its issuance, an additional conditional tax clearance certificate or tax clearance certificate shall be completed, which has a final due date of at least 30 days beyond the date of issuance.

(c) If the tax collector fails to comply with the demand within 30 days from the date the demand is mailed, the escrow officer may

close the escrow in accordance with the provisions of subdivision (m) of Section 18035.

(d) The issuance, alteration, forgery, or use of any tax clearance certificate or conditional certificate in a manner contrary to the requirements of the Controller constitutes a misdemeanor.

SEC. 6. 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.

Moreover, 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 other 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 for those other costs.

CHAPTER 1340

An act to amend Sections 14195, 14195.2, 14195.6, and 14195.8 of, and to repeal Sections 14195.1 and 14196.1 of, the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987]

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

SECTION 1. Section 14195 of the Welfare and Institutions Code is amended to read:

14195. It is the intent of the Legislature to provide medical assistance, including prescribed drugs, to the state's eligible poor in a manner consistent with the provisions of the federal Medicaid Act, provided for under Title XIX of the Social Security Act (42 U.S.C. Sec. 1396 et seq.). It is the further intent of the Legislature to test the effectiveness of an open formulary drug therapy program. In order to help achieve this goal, the Legislature hereby establishes an open drug formulary under the Medi-Cal program wherein a beneficiary may receive the most appropriate, most effective, and most cost-efficient drug available for the treatment of his or her illness. It is also the intent of the Legislature in enacting this article to establish a drug utilization review system which will evaluate and enhance the therapeutic outcome of drugs prescribed for persons eligible for Medi-Cal pursuant to this chapter.

SEC. 2. Section 14195.1 of the Welfare and Institutions Code is

repealed.

SEC. 3. Section 14195.2 of the Welfare and Institutions Code is amended to read:

14195.2. The open drug formulary, as established pursuant to this article, shall be implemented in one pilot project site. The site shall be located in a northern California test area, comprised of Sacramento and Placer Counties which includes urban, suburban, and rural settings. This pilot project shall not be implemented until federal approval is secured and full federal financial participation is assured.

SEC. 4. Section 14195.6 of the Welfare and Institutions Code is amended to read:

14195.6. The department shall develop a request for a proposal, and may award a contract to an expert contractor to implement the standards and practices established by the Medi-Cal Therapeutic Drug Utilization Review System through use of a therapeutically oriented drug utilization review system by July 1, 1989. The contract shall include a requirement to analyze the therapeutic outcomes of the Medi-Cal Drug Program using the California MMIS for the period of July 1, 1987, through the date the standards established by this article are implemented. Thereafter, the contractor shall submit quarterly reports to the department and the Legislature analyzing therapeutic outcomes in a manner that will allow comparisons with the experience analyzed for the period of July 1, 1987, until implementation of the standards established by this article. The analysis shall include reports on at least the following items:

(a) Compatibility of medication to diagnosis.

(b) Overprescribing of drugs.

(c) Prescription of contraindicated or incompatible drugs.

(d) Number of days of drug-induced hospitalization and institutionalization in skilled nursing facilities or intermediate care facilities occurring because of the factors specified in subdivisions (a) to (c), inclusive.

(e) Number of days of drug-induced hospitalization and institutionalization in skilled nursing facilities or intermediate care facilities avoided due to changes in drug regimes which result from compliance by prescribers and beneficiaries with the standards established pursuant to this article.

The department is authorized to require the contractor to phase in implementation of the prescriber notification, as established by protocols for informing prescribers of inappropriate prescribing.

SEC. 5. Section 14196.1 of the Welfare and Institutions Code is repealed.

SEC. 6. Section 14195.8 of the Welfare and Institutions Code is amended to read:

14195.8. The Auditor General shall provide or select an appropriate contractor to provide an evaluation of the Therapeutic Drug Utilization Review System established by this article with respect to all of the following issues:

(a) The impact on institutionalization of Medi-Cal eligibles by operation of the Medi-Cal therapeutic drug utilization review process.

(b) The cost impact of the Medi-Cal therapeutic drug utilization review process.

(c) The evaluation report shall be submitted to the department and the Legislature no later than May 1, 1991, with recommendations whether the Therapeutic Drug Utilization Review System established by this article is cost-effective and should be continued.

SEC. 7. The State Department of Health Services shall adopt any regulations as are necessary to implement the provisions of this act. These regulations shall be adopted as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for the purposes of the Administrative Procedure Act, shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

SEC. 8. Any provision of this act which is in conflict with any federal statute or regulation shall be inapplicable to the extent of the conflict, but the remainder of the provisions shall be unaffected.

SEC. 9. The department shall seek all federal waivers necessary to implement the provisions of this act. The provisions for which federal waivers cannot be obtained shall not be implemented, but provisions for which waivers are either obtained or found to be unnecessary shall be unaffected by the inability to obtain federal waivers for the other provisions.

SEC. 10. If any provisions of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SEC. 11. The State Department of Health Services shall seek maximum federal reimbursement for the MMIS-based Drug Establishment Review System established pursuant to Article 6.1 (commencing with Section 14195) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code.

CHAPTER 1341

An act to amend Section 2135 of the Business and Professions Code, relating to physicians and surgeons, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987]

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

SECTION 1. Section 2135 of the Business and Professions Code is amended to read:

2135. The Division of Licensing shall issue a physician's and surgeon's certificate on reciprocity to an applicant who meets all of the following requirements:

(a) The applicant holds an unlimited license as a physician and surgeon in another state which was issued upon:

(1) Successful completion of a resident course of professional instruction equivalent to that specified in Section 2089.

(2) Taking and passing a written examination that is recognized by the division to be equivalent in content to that administered in California.

(b) The applicant has practiced medicine, with an unrestricted license, in a state or states, or as a member of the active military, United States Public Health Services, or other federal program, for a period of at least four years.

(c) The division determines that no disciplinary action has been taken against the applicant by any medical licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of medicine which the division determines constitutes evidence of a pattern of negligence or incompetence.

(d) The applicant takes and passes the clinical competency portion of the written examination in California, administered by the division. However, this subdivision shall not apply to graduate of a medical school accredited by a national accrediting agency approved by the division and recognized by the United States Department of Education.

(e) The applicant takes and passes an oral examination administered by the division.

(f) The applicant has not committed any acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475) or Article 12 (commencing with Section 2220).

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Due to a shortage of physicians and surgeons in specified areas of this state and because this act would reduce artificial barriers to licensure for physicians and surgeons licensed in other states and allow qualified persons to become licensed physicians and surgeons in this state, it is necessary that this act go into immediate effect.

CHAPTER 1342

An act relating to consumer affairs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987]

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

SECTION 1. Notwithstanding the provisions of Sections 17206, 17535.5, and 17536 of the Business and Professions Code, all civil penalties recovered in the case of People v. A-S Development, Plumas County Superior Court No. 8954 shall be paid to Tehama County, Plumas County, and the state in the ratio of 53.70 percent, 26.85 percent, and 19.45 percent, respectively.

SEC. 2. Section 1 of this act is necessary since special facts and circumstances applicable to the case of People v. A-S Development, and not generally applicable, make the accomplishment of this purpose impossible by any general law. Special legislation is therefore necessarily applicable to that case only. The special facts are as follows:

A change of venue in the case of People v. A-S Development, resulting in a transfer of the case from Tehama County to Plumas County, which was not contemplated in the division of civil penalties provided for under existing law, will work a severe injustice to Tehama County unless this bill is enacted to cover the unique circumstances of this case. The state's involvement in this case was minimal and only during the initial stages. Both counties, Tehama in particular, have borne a much greater share in the cost of preparation and prosecution of this case.

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 for the fair distribution of civil penalties in the case of People v. A-S Development, it is necessary that this act go into effect immediately.

CHAPTER 1343

An act to amend Section 1026.2 of, and to amend and repeal Section 1603 of, the Penal Code, relating to crime.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 1026.2 of the Penal Code, as amended by Section 1 of Chapter 549 of the Statutes of 1986, 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). 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 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, 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 the applicant does not meet all of 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 remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 2. Section 1026.2 of the Penal Code, as amended by Section 3 of Chapter 1232 of the Statutes of 1985, 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, 1994.

SEC. 3. Section 1603 of the Penal Code, as amended by Section 11 of Chapter 1232 of the Statutes of 1985, 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 would no longer be a danger to the health and safety of others, including himself or herself, while under supervision and treatment in the community, and will benefit from such 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 to the victim or next of kin of the victim of the offense for which the person was committed where a request for the 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, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 4. Section 1603 of the Penal Code, as amended by Section 12 of Chapter 1232 of the Statutes of 1985, is repealed.

SEC. 5. Section 1603 of the Penal Code, as amended by Section 13 of Chapter 1232 of the Statutes of 1985, 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, 1994.

SEC. 6. No reimbursement is required 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 local government. 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) of Division 4 of Title 2 of the Government Code.

CHAPTER 1344

An act to amend Section 62.1 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 62.1 of the Revenue and Taxation Code is amended to read:

62.1. Change in ownership shall not include either of the following:

(a) Any transfer, on or after January 1, 1985, of a mobilehome park to a nonprofit corporation, stock cooperative corporation, or other entity formed by the tenants of a mobilehome park for the purpose of purchasing the mobilehome park.

(b) Any transfer or transfers on or after January 1, 1985, and before January 1, 1987, of rental spaces in a mobilehome park to the individual tenants of the rental spaces, provided that (1) at least 51 percent of the rental spaces are purchased by individual tenants renting their spaces prior to purchase, and (2) the individual tenants of these spaces form, within one year after the first purchase of a rental space by an individual tenant, a nonprofit corporation, stock cooperative, or other entity, as described in Section 50561 of the Health and Safety Code, to operate and maintain the park. If, on or after January 1, 1985, and before January 1, 1987, an individual tenant or tenants notify the county assessor of the intention to comply with the conditions set forth in the preceding sentence, any mobilehome park rental space which is purchased by an individual tenant in that mobilehome park during that period shall not be reappraised by the assessor. However, if all of the conditions set forth in the first sentence of this subdivision are not satisfied, the county assessor shall thereafter levy escape assessments for the spaces so transferred. This subdivision shall apply only to those rental mobilehome parks which have been in operation for five years of more.

(c) Subdivision (a) shall remain in effect only until January 1,

1994. Subdivision (b) shall remain in effect only until January 1, 1987.

(d) It is the intent of the Legislature that, in order to facilitate affordable conversions of mobilehome parks to tenant ownership, subdivision (a) apply to all bona fide transfers of rental mobilehome parks to tenant ownership, including, but not limited to, those parks converted to tenant ownership as a nonprofit corporation made on or after January 1, 1985, and before the termination date of subdivision (a).

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent residents of rental mobilehome parks who have purchased their parks from losing their mobilehome spaces, shares, or interests due to the cost of increased property tax assessments, it is necessary that this act take immediate effect.

CHAPTER 1345

An act to amend Section 1463.22 of the Penal Code, relating to driving offenses, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 1463.22 of the Penal Code is amended to read:

1463.22. (a) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, ten dollars ($10) for each alleged violation of Section 16028 of the Vehicle Code shall be deposited by the county treasurer in a special account and allocated to defray costs of municipal and justice courts incurred in administering Sections 16028, 16030, and 16031 of the Vehicle Code. The amount required to be deposited in a special account pursuant to this subdivision shall be deposited regardless of whether the charge is dismissed pursuant to subdivision (d) of Section 16028 of the Vehicle Code or otherwise. Any moneys in the special account in excess of the amount required to defray those costs shall be redeposited and distributed by the county treasurer pursuant to Section 1463.

(b) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, three dollars ($3) for each conviction for a violation of Section 16028 of the Vehicle Code shall be initially deposited by the county treasurer in a special account, and shall be transmitted once per month to the Controller

for deposit in the Motor Vehicle Account in the State Transportation Fund. These moneys shall be available, when appropriated, to defray the administrative costs incurred by the Department of Motor Vehicles pursuant to Sections 16031, 16032, 16034, and 16035 of the Vehicle Code. It is the intent of this subdivision to provide sufficient revenues to pay for all of the department's costs in administering those sections of the Vehicle Code.

(c) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, ten dollars ($10) upon the conviction of, or upon the forfeiture of bail from, any person arrested or notified for a violation of Section 16028 of the Vehicle Code shall be deposited by the county treasurer in a special account and shall be transmitted monthly to the Controller for deposit in the General Fund.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The stay on the enforcement of the Robbins-McAlister Financial Responsibility Act is presently under consideration by the California Supreme Court and set for hearing on April 10, 1987.

If the stay is lifted by the Supreme Court, counties and cities may not enforce the act because ten dollars ($10) for each citation for a violation of that act must be sent to the General Fund and the county or city may lose money on the enforcement of the act. The change in law contemplated by this act will permit immediate enforcement of the act when the Supreme Court acts to remove its stay. Therefore, it is necessary that this act take effect immediately.

CHAPTER 1346

An act to add Section 53080.4 to the Government Code, and to amend Sections 18035 and 18035.2 of the Health and Safety Code, relating to school facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987]

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

SECTION 1. Section 53080.4 is added to the Government Code, to read:

53080.4. (a) Notwithstanding any other provision of law, any fee, charge, dedication, or other form of requirement levied by the governing board of a school district under Section 53080 may apply, as to any manufactured home or mobilehome, only pursuant to compliance with all of the following conditions:

(1) The fee, charge, dedication, or other form of requirement is applied to the initial location, installation, or occupancy of the manufactured home or mobilehome within the school district.

(2) The manufactured home or mobilehome is to be located, installed, or occupied on a space or site on which no other manufactured home or mobilehome was previously located, installed, or occupied.

(3) The manufactured home or mobilehome is to be located, installed, or occupied on a space in a mobilehome park, or on any site or in any development outside a mobilehome park, on which the construction of the pad or foundation system commenced after September 1, 1986.

(b) Compliance on the part of any manufactured home or mobilehome with any fee, charge, dedication, or other form of requirement, as described in subdivision (a), or certification by the appropriate school district of that compliance, shall be required as a condition of the following, as applicable:

(1) The close of escrow, where the manufactured home or mobilehome is to be located, installed, or occupied on a mobilehome park space, or on any site or in any development outside a mobilehome park, as described in subdivision (a), and the sale or transfer of the manufactured home or mobilehome is subject to escrow as provided in Section 18035 or 18035.2 of the Health and Safety Code.

(2) The approval of the manufactured home or mobilehome for occupancy pursuant to Section 18551 or 18613 of the Health and Safety Code, in the event that paragraph (1) does not apply.

(c) No fee or other requirement levied under Section 53080 shall be applied to any of the following:

(1) Any manufactured home or mobilehome located, installed, or occupied on a space in a mobilehome park on or before September 1, 1986, or on any date thereafter if construction on that space, pursuant to a building permit, commenced on or before September 1, 1986.

(2) Any manufactured home or mobilehome located, installed, or occupied on any site outside of a mobilehome park on or before September 1, 1986, or on any date thereafter if construction on that site pursuant to a building permit commenced on or before September 1, 1986.

(3) The replacement of or addition to a manufactured home or mobilehome located, installed, or occupied on a space in a mobilehome park, subsequent to the original location, installation, or occupancy of any manufactured home or mobilehome on that space.

(4) The replacement of a manufactured home or mobilehome that was destroyed or damaged by fire or any form of natural disaster.

(5) A manufactured home or mobilehome accessory structure, as defined in Section 18008.5 or 18213 of the Health and Safety Code.

(6) The conversion of a rental mobilehome park to a subdivision, cooperative, or condominium for mobilehomes, or its conversion to

any other form of resident ownership of the park as described in Section 50561 of the Health and Safety Code.

(d) Where any fee or other requirement levied under Section 53080 is required as to any manufactured home or mobilehome, which manufactured home or mobilehome is subsequently replaced by a permanent residential structure constructed on the same lot, the amount of that fee or other requirement shall apply toward the payment of any fee or other requirement under Section 53080 applied to that permanent residential structure.

(e) Notwithstanding any other provision of law, any school district that, on or after January 1, 1987, collected any fee, charge, dedication, or other form of requirement from any manufactured home, mobilehome, mobilehome park, or other development, shall immediately repay the fee, charge, dedication, or other form of requirement to the person or persons who made the payment to the extent the fee, charge, dedication, or other form of requirement collected would not have been authorized under subdivision (a). This subdivision shall not apply, however, to the extent that, pursuant to Section 16 of Article I of the California Constitution, it would impair the obligation of any contract entered into by any school district, on or before the effective date of this section.

(f) For purposes of this section, "manufactured home," "mobilehome," and "mobilehome park" have the meanings set forth in Sections 18007, 18008, and 18214, respectively, of the Health and Safety Code.

SEC. 2. Section 18035 of the Health and Safety Code is amended to read:

18035. (a) For every sale by a dealer of a new or used manufactured home or mobilehome subject to registration under this part, the dealer shall execute in writing and obtain the buyer's signature on a purchase order, conditional sale contract, or other document evidencing the purchase contemporaneous with, or prior to, the receipt of any cash or cash equivalent from the buyer, shall establish an escrow account with an escrow agent, and shall cause to be deposited into that escrow account any cash or cash equivalent received at any time prior to the close of escrow as a deposit, downpayment, or whole or partial payment for the manufactured home or mobilehome or accessory thereto. The downpayment, or whole or partial payment, shall include an amount designated as a deposit, which may be less than, or equal to, the total amount placed in escrow, and shall be subject to the provisions of subdivision (f). The parties shall provide for escrow instructions that identify the fixed amounts of the deposit, downpayment, and balance due prior to closing consistent with the amounts set forth in the purchase documents and receipt for deposit if one is required by Section 18035.1. The deposits shall be made by the dealer within three working days of receipt, one of which shall be the day of receipt. For purposes of this section, "cash equivalent" means any property, other than cash. If an item of cash equivalent is, due to its size, incapable

of physical delivery to the escrow holder, the property may be held by the dealer for the purchaser until close of escrow and, if the property has been registered with the department or the Department of Motor Vehicles, its registration certificate and, if available, its certificate of title shall be delivered to the escrow holder.

(b) For every sale by a dealer of a new manufactured home or mobilehome, the escrow instructions shall provide all of the following:

(1) That the original manufacturer's certificate of origin be placed in escrow.

(2) That, in the alternative, either of the following shall occur:

(A) The lien of any inventory creditor on the manufactured home or mobilehome shall be satisfied by payment from the escrow account.

(B) The inventory creditor shall consent in writing to other than full payment.

For purposes of this paragraph, "inventory creditor" includes any person who is identified as a creditor on the manufacturer's certificate of origin or any person who places the original certificate of origin in escrow and claims in writing to the escrow agent to have a purchase money security interest in the manufactured home or mobilehome, as contemplated by Section 9107 of the Commercial Code.

(3) That the escrow agent shall obtain from the manufacturer a true and correct facsimile of the copy of the certificate of origin retained by the manufacturer pursuant to Section 18093.

(c) For every sale by a dealer of a used manufactured home or mobilehome, the escrow instructions shall provide:

(1) That the current registration card, all copies of the registration cards held by junior lienholders, and the certificate of title be placed in escrow.

(2) That, in the alternative, either of the following shall occur:

(A) (i) The registered owner shall acknowledge in writing the amount of the commission to be received by the dealer for the sale of the manufactured home or mobilehome, and (ii) the registered owner shall release all of its ownership interests in the manufactured home or mobilehome either contemporaneously upon the payment of a specified amount from the escrow account or at the close of the escrow where the buyer has executed a security agreement approved by the registered owner covering the unpaid balance of the purchase price.

(B) (i) The dealer shall declare in writing that the manufactured home or mobilehome is its inventory, (ii) the registered owner shall acknowledge in writing that the purchase price relating to the sale of the manufactured home or mobilehome to the dealer for resale has been paid in full by the dealer, (iii) the current registration card shall be appropriately executed by the registered owner to reflect the release of all of its ownership interests, and (iv) the dealer shall

release all of its ownership interests in the manufactured home or mobilehome either contemporaneously upon the payment of a specified amount from the escrow account or at the close of escrow where the buyer has executed a security agreement approved by the dealer covering the unpaid balance of the purchase price.

(3) That, in the alternative, the legal owner and each junior lienholder, respectively, shall either:

(A) Release his or her security interest or transfer its security interest to a designated third party contemporaneously upon the payment of a specified amount from the escrow account.

(B) Advise the escrow agent in writing that the new buyer or the buyer's stated designee shall be approved as the new registered owner upon the execution by the buyer of a formal assumption of the indebtedness secured by his or her lien approved by the creditor at or before the close of escrow.

(d) For every sale by a dealer of a used manufactured home or mobilehome:

(1) The dealer shall present the buyer's offer to purchase the manufactured home or mobilehome to the seller in written form signed by the buyer. The seller, upon accepting the offer to purchase, shall sign and date the form. Copies of the fully executed form shall be presented to both the buyer and seller, with the original copy retained by the dealer. Any portion of the form that reflects the commission charged by the dealer to the seller need not be disclosed to the buyer.

(2) The escrow agent, upon the opening of the escrow and receipt of notification from the dealer that the seller has accepted the buyer's offer to purchase, shall, within three working days, prepare a notice of escrow opening on the form prescribed by the department and forward the completed form to the department with appropriate fees. If the escrow is cancelled for any reason before closing, the escrow agent shall prepare a notice of escrow cancellation on the form prescribed by the department and forward the completed form to the department.

(3) (A) The escrow agent shall forward to the legal owner and each junior lienholder at their addresses shown on the current registration card a written demand for a lien status report, as contemplated by Section 18035.5, and a written demand for either an executed statement of conditional lien release or an executed statement of anticipated formal assumption, and shall enclose blank copies of a statement of conditional lien release and a statement of anticipated formal assumption on forms prescribed by the department. The statement of conditional lien release shall include, among other things, both of the following:

(i) A statement of the dollar amount or other conditions required by the creditor in order to release or transfer its lien.

(ii) The creditor's release or transfer of the lien in the manufactured home or mobilehome contingent upon the satisfaction of those conditions.

(B) The statement of anticipated formal assumption shall include, among other things, both of the following:

(i) A statement of the creditor's belief that the buyer will formally assume the indebtedness secured by its lien pursuant to terms and conditions which are acceptable to the creditor at or before the close of escrow.

(ii) The creditor's approval of the buyer or his or her designee as the registered owner upon the execution of the formal assumption.

(4) Within five days of the receipt of the written demand and documents required by paragraph (3), the legal owner or junior lienholder shall complete and execute either the statement of conditional lien release or, if the creditor has elected to consent to a formal assumption requested by a qualified buyer, the statement of anticipated formal assumption, as appropriate, and prepare the lien status report and forward the documents to the escrow agent by first-class mail. If the creditor is the legal owner, the certificate of ownership in an unexecuted form shall accompany the documents. If the creditor is a junior lienholder, the creditor's copy of the current registration card in an unexecuted form shall accompany the documents.

(5) If either of the following events occur, any statement of conditional lien release or statement of anticipated formal assumption executed by the creditor shall become inoperative, and the escrow agent shall thereupon return the form and the certificate of ownership or the copy of the current registration card, as appropriate, to the creditor by first-class mail:

(A) The conditions required in order for the creditor to release or transfer his or her lien are not satisfied before the end of the escrow period agreed upon in writing between the buyer and the seller or, if applicable, before the end of any extended escrow period as permitted by subdivision (g).

(B) The registered owner advises the creditor not to accept any satisfaction of his or her lien or not to permit any formal assumption of the indebtedness and the creditor or registered owner advises the escrow agent in writing accordingly.

(6) If a creditor willfully fails to comply with the requirements of paragraph (4) within 21 days of the receipt of the written demand and documents required by paragraph (3), the creditor shall forfeit to the escrow agent three hundred dollars ($300), except where the creditor has reasonable cause for noncompliance. The three hundred dollars ($300) shall be credited to the seller, unless otherwise provided in the escrow instructions. Any penalty paid by a creditor under this paragraph shall preclude any civil liability for noncompliance with Section 18035.5 relating to the same act or omission.

(e) For every sale by a dealer of a new or used manufactured home or mobilehome, the escrow instructions shall specify one of the following:

(1) Upon the buyer receiving delivery of an installed

manufactured home or mobilehome on the site and the manufactured home or mobilehome passing inspection pursuant to Section 18613 or after the manufactured home or mobilehome has been delivered to the location specified in the escrow instructions when the installation is to be performed by the buyer, all funds in the escrow account, other than escrow fees and amounts for accessories not yet delivered, shall be disbursed.

(2) Upon the buyer receiving delivery of an installed manufactured home or mobilehome not subject to the provisions of Section 18613 with delivery requirements as mutually agreed to and set forth in the sales documents, all funds in the escrow account, other than escrow fees, shall be disbursed.

(f) In the event any dispute arises between the parties to the escrow and upon notification in writing to the escrow agent, unless otherwise specified in the escrow instructions, all funds denoted as deposit shall be held in escrow until a release is signed by the disputing party, or pursuant to new written escrow instructions signed by the parties involved, or pursuant to a final order for payment or division by a court of competent jurisdiction. Any other funds, other than escrow fees, shall be returned to the buyer or any person, other than the dealer or seller, as appropriate.

(g) Escrow shall be for a period of time mutually agreed upon, in writing, by the buyer and the seller. However, the parties may, by mutual consent, extend the time, in writing, with notice to the escrow agent.

(h) No dealer or seller shall establish with an escrow agent any escrow account in an escrow company in which the dealer or seller has more than a 5 percent ownership interest.

(i) The escrow instructions may provide for the proration of any local property tax due or to become due on the manufactured home or mobilehome, and if the tax, or the license fee imposed pursuant to Section 18115, or the registration fee imposed pursuant to Section 18114, is delinquent, the instructions may provide for the payment of the taxes or fees, or both, and any applicable penalties.

(j) For every sale by a dealer of a new or used manufactured home or mobilehome, the escrow instructions shall provide that the payment of any fee, charge, dedication, or other form of requirement levied by a school district pursuant to Section 53080 of the Government Code be made to the appropriate school district upon the close of escrow, except where the school district has certified compliance with that fee, charge, dedication, or other form of requirement.

(k) No agreement shall contain any provision by which the buyer waives his or her rights under this section, and any waiver shall be deemed contrary to public policy and shall be void and unenforceable.

(*l*) If a portion of the amount in the escrow is for accessories, then that portion of the amount shall not be released until the accessories are actually installed.

(m) This section creates a civil cause of action against a buyer or dealer or other seller who violates this section, and upon prevailing, the plaintiff in the action shall be awarded actual damages, plus an amount not in excess of two thousand dollars ($2,000). In addition, attorney's fees and court costs shall also be awarded a plaintiff who prevails in the action.

SEC. 2.3. Section 18035 of the Health and Safety Code, as amended by Section 2 of this act, is amended to read:

18035. (a) For every sale by a dealer of a new or used manufactured home or mobilehome subject to registration under this part, the dealer shall execute in writing and obtain the buyer's signature on a purchase order, conditional sale contract, or other document evidencing the purchase contemporaneous with, or prior to, the receipt of any cash or cash equivalent from the buyer, shall establish an escrow account with an escrow agent, and shall cause to be deposited into that escrow account any cash or cash equivalent received at any time prior to the close of escrow as a deposit, downpayment, or whole or partial payment for the manufactured home or mobilehome or accessory thereto. The downpayment, or whole or partial payment, shall include an amount designated as a deposit, which may be less than, or equal to, the total amount placed in escrow, and shall be subject to the provisions of subdivision (f). The parties shall provide for escrow instructions that identify the fixed amounts of the deposit, downpayment, and balance due prior to closing consistent with the amounts set forth in the purchase documents and receipt for deposit if one is required by Section 18035.1. The deposits shall be made by the dealer within three working days of receipt, one of which shall be the day of receipt. For purposes of this section, "cash equivalent" means any property, other than cash. If an item of cash equivalent is, due to its size, incapable of physical delivery to the escrow holder, the property may be held by the dealer for the purchaser until close of escrow and, if the property has been registered with the department or the Department of Motor Vehicles, its registration certificate and, if available, its certificate of title shall be delivered to the escrow holder.

(b) For every sale by a dealer of a new manufactured home or mobilehome, the escrow instructions shall provide all of the following:

(1) That the original manufacturer's certificate of origin be placed in escrow.

(2) That, in the alternative, either of the following shall occur:

(A) The lien of any inventory creditor on the manufactured home or mobilehome shall be satisfied by payment from the escrow account.

(B) The inventory creditor shall consent in writing to other than full payment.

For purposes of this paragraph, "inventory creditor" includes any person who is identified as a creditor on the manufacturer's

certificate of origin or any person who places the original certificate of origin in escrow and claims in writing to the escrow agent to have a purchase money security interest in the manufactured home or mobilehome, as contemplated by Section 9107 of the Commercial Code.

(3) That the escrow agent shall obtain from the manufacturer a true and correct facsimile of the copy of the certificate of origin retained by the manufacturer pursuant to Section 18093.

(c) For every sale by a dealer of a used manufactured home or mobilehome, the escrow instructions shall provide:

(1) That the current registration card, all copies of the registration cards held by junior lienholders, and the certificate of title be placed in escrow.

(2) That, in the alternative, either of the following shall occur:

(A) (i) The registered owner shall acknowledge in writing the amount of the commission to be received by the dealer for the sale of the manufactured home or mobilehome, and (ii) the registered owner shall release all of its ownership interests in the manufactured home or mobilehome either contemporaneously upon the payment of a specified amount from the escrow account or at the close of the escrow where the buyer has executed a security agreement approved by the registered owner covering the unpaid balance of the purchase price.

(B) (i) The dealer shall declare in writing that the manufactured home or mobilehome is its inventory, (ii) the registered owner shall acknowledge in writing that the purchase price relating to the sale of the manufactured home or mobilehome to the dealer for resale has been paid in full by the dealer, (iii) the current title shall be appropriately executed by the registered owner to reflect the release of all of its ownership interests, and (iv) the dealer shall release all of its ownership interests in the manufactured home or mobilehome either contemporaneously upon the payment of a specified amount from the escrow account or at the close of escrow where the buyer has executed a security agreement approved by the dealer covering the unpaid balance of the purchase price.

(3) That, in the alternative, the legal owner and each junior lienholder, respectively, shall either:

(A) Release his or her security interest or transfer its security interest to a designated third party contemporaneously upon the payment of a specified amount from the escrow account.

(B) Advise the escrow agent in writing that the new buyer or the buyer's stated designee shall be approved as the new registered owner upon the execution by the buyer of a formal assumption of the indebtedness secured by his or her lien approved by the creditor at or before the close of escrow.

(d) For every sale by a dealer of a used manufactured home or mobilehome:

(1) The dealer shall present the buyer's offer to purchase the manufactured home or mobilehome to the seller in written form

signed by the buyer. The seller, upon accepting the offer to purchase, shall sign and date the form. Copies of the fully executed form shall be presented to both the buyer and seller, with the original copy retained by the dealer. Any portion of the form that reflects the commission charged by the dealer to the seller need not be disclosed to the buyer.

(2) The escrow agent, upon the opening of the escrow and receipt of notification from the dealer that the seller has accepted the buyer's offer to purchase, shall, within three working days, prepare a notice of escrow opening on the form prescribed by the department and forward the completed form to the department with appropriate fees. If the escrow is cancelled for any reason before closing, the escrow agent shall prepare a notice of escrow cancellation on the form prescribed by the department and forward the completed form to the department.

(3) (A) The escrow agent shall forward to the legal owner and each junior lienholder at their addresses shown on the current registration card a written demand for a lien status report, as contemplated by Section 18035.5, and a written demand for either an executed statement of conditional lien release or an executed statement of anticipated formal assumption, and shall enclose blank copies of a statement of conditional lien release and a statement of anticipated formal assumption on forms prescribed by the department. The statement of conditional lien release shall include, among other things, both of the following:

(i) A statement of the dollar amount or other conditions required by the creditor in order to release or transfer its lien.

(ii) The creditor's release or transfer of the lien in the manufactured home or mobilehome contingent upon the satisfaction of those conditions.

(B) The statement of anticipated formal assumption shall include, among other things, both of the following:

(i) A statement of the creditor's belief that the buyer will formally assume the indebtedness secured by its lien pursuant to terms and conditions which are acceptable to the creditor at or before the close of escrow.

(ii) The creditor's approval of the buyer or his or her designee as the registered owner upon the execution of the formal assumption.

(4) Within five days of the receipt of the written demand and documents required by paragraph (3), the legal owner or junior lienholder shall complete and execute either the statement of conditional lien release or, if the creditor has elected to consent to a formal assumption requested by a qualified buyer, the statement of anticipated formal assumption, as appropriate, and prepare the lien status report and forward the documents to the escrow agent by first-class mail. If the creditor is the legal owner, the certificate of ownership in an unexecuted form shall accompany the documents. If the creditor is a junior lienholder, the creditor's copy of the current registration card in an unexecuted form shall accompany the

documents.

(5) If either of the following events occur, any statement of conditional lien release or statement of anticipated formal assumption executed by the creditor shall become inoperative, and the escrow agent shall thereupon return the form and the certificate of ownership or the copy of the current registration card, as appropriate, to the creditor by first-class mail:

(A) The conditions required in order for the creditor to release or transfer his or her lien are not satisfied before the end of the escrow period agreed upon in writing between the buyer and the seller or, if applicable, before the end of any extended escrow period as permitted by subdivision (g).

(B) The registered owner advises the creditor not to accept any satisfaction of his or her lien or not to permit any formal assumption of the indebtedness and the creditor or registered owner advises the escrow agent in writing accordingly.

(6) If a creditor willfully fails to comply with the requirements of paragraph (4) within 21 days of the receipt of the written demand and documents required by paragraph (3), the creditor shall forfeit to the escrow agent three hundred dollars ($300), except where the creditor has reasonable cause for noncompliance. The three hundred dollars ($300) shall be credited to the seller, unless otherwise provided in the escrow instructions. Any penalty paid by a creditor under this paragraph shall preclude any civil liability for noncompliance with Section 18035.5 relating to the same act or omission.

(e) For every sale by a dealer of a new or used manufactured home or mobilehome, the escrow instructions shall specify one of the following:

(1) Upon the buyer receiving delivery of an installed manufactured home or mobilehome on the site and the manufactured home or mobilehome passing inspection pursuant to Section 18613 or after the manufactured home or mobilehome has been delivered to the location specified in the escrow instructions when the installation is to be performed by the buyer, all funds in the escrow account, other than escrow fees and amounts for accessories not yet delivered, shall be disbursed.

(2) Upon the buyer receiving delivery of an installed manufactured home or mobilehome not subject to the provisions of Section 18613 with delivery requirements as mutually agreed to and set forth in the sales documents, all funds in the escrow account, other than escrow fees, shall be disbursed.

(f) In the event any dispute arises between the parties to the escrow and upon notification in writing to the escrow agent, unless otherwise specified in the escrow instructions, all funds denoted as deposit shall be held in escrow until a release is signed by the disputing party, or pursuant to new written escrow instructions signed by the parties involved, or pursuant to a final order for payment or division by a court of competent jurisdiction. Any other

funds, other than escrow fees, shall be returned to the buyer or any person, other than the dealer or seller, as appropriate.

(g) Escrow shall be for a period of time mutually agreed upon, in writing, by the buyer and the seller. However, the parties may, by mutual consent, extend the time, in writing, with notice to the escrow agent.

(h) No dealer or seller shall establish with an escrow agent any escrow account in an escrow company in which the dealer or seller has more than a 5 percent ownership interest.

(i) The escrow instructions may provide for the proration of any local property tax due or to become due on the manufactured home or mobilehome, and if the tax, or the license fee imposed pursuant to Section 18115, or the registration fee imposed pursuant to Section 18114, is delinquent, the instructions may provide for the payment of the taxes or fees, or both, and any applicable penalties.

(j) For every sale by a dealer of a new or used manufactured home or mobilehome, the escrow instructions shall provide that the payment of any fee, charge, dedication, or other form of requirement levied by a school district pursuant to Section 53080 of the Government Code be made to the appropriate school district upon the close of escrow, except where the school district has certified compliance with that fee, charge, dedication, or other form of requirement.

(k) No agreement shall contain any provision by which the buyer waives his or her rights under this section, and any waiver shall be deemed contrary to public policy and shall be void and unenforceable.

(*l*) If a portion of the amount in the escrow is for accessories, then that portion of the amount shall not be released until the accessories are actually installed.

(m) This section creates a civil cause of action against a buyer or dealer or other seller who violates this section, and upon prevailing, the plaintiff in the action shall be awarded actual damages, plus an amount not in excess of two thousand dollars ($2,000). In addition, attorney's fees and court costs shall also be awarded a plaintiff who prevails in the action.

SEC. 2.5. Section 18035 of the Health and Safety Code, as amended by Section 2 of this act, is amended to read:

18035. (a) For every sale by a dealer of a new or used manufactured home or mobilehome subject to registration under this part, the dealer shall execute in writing and obtain the buyer's signature on a purchase order, conditional sale contract, or other document evidencing the purchase contemporaneous with, or prior to, the receipt of any cash or cash equivalent from the buyer, shall establish an escrow account with an escrow agent, and shall cause to be deposited into that escrow account any cash or cash equivalent received at any time prior to the close of escrow as a deposit, downpayment, or whole or partial payment for the manufactured home or mobilehome or accessory thereto. The downpayment, or

whole or partial payment, shall include an amount designated as a deposit, which may be less than, or equal to, the total amount placed in escrow, and shall be subject to the provisions of subdivision (f). The parties shall provide for escrow instructions that identify the fixed amounts of the deposit, downpayment, and balance due prior to closing consistent with the amounts set forth in the purchase documents and receipt for deposit if one is required by Section 18035.1. The deposits shall be made by the dealer within three working days of receipt, one of which shall be the day of receipt. For purposes of this section, "cash equivalent" means any property, other than cash. If an item of cash equivalent is, due to its size, incapable of physical delivery to the escrow holder, the property may be held by the dealer for the purchaser until close of escrow and, if the property has been registered with the department or the Department of Motor Vehicles, its registration certificate and, if available, its certificate of title shall be delivered to the escrow holder.

(b) For every sale by a dealer of a new manufactured home or mobilehome, the escrow instructions shall provide all of the following:

(1) That the original manufacturer's certificate of origin be placed in escrow.

(2) That, in the alternative, either of the following shall occur:

(A) The lien of any inventory creditor on the manufactured home or mobilehome shall be satisfied by payment from the escrow account.

(B) The inventory creditor shall consent in writing to other than full payment.

For purposes of this paragraph, "inventory creditor" includes any person who is identified as a creditor on the manufacturer's certificate of origin or any person who places the original certificate of origin in escrow and claims in writing to the escrow agent to have a purchase money security interest in the manufactured home or mobilehome, as contemplated by Section 9107 of the Commercial Code.

(3) That the escrow agent shall obtain from the manufacturer a true and correct facsimile of the copy of the certificate of origin retained by the manufacturer pursuant to Section 18093.

(c) For every sale by a dealer of a used manufactured home or mobilehome, the escrow instructions shall provide:

(1) That the current registration card, all copies of the registration cards held by junior lienholders, and the certificate of title be placed in escrow.

(2) That, in the alternative, either of the following shall occur:

(A) (i) The registered owner shall acknowledge in writing the amount of the commission to be received by the dealer for the sale of the manufactured home or mobilehome, and (ii) the registered owner shall release all of its ownership interests in the manufactured home or mobilehome either contemporaneously upon the payment

of a specified amount from the escrow account or at the close of the escrow where the buyer has executed a security agreement approved by the registered owner covering the unpaid balance of the purchase price.

(B) (i) The dealer shall declare in writing that the manufactured home or mobilehome is its inventory, (ii) the registered owner shall acknowledge in writing that the purchase price relating to the sale of the manufactured home or mobilehome to the dealer for resale has been paid in full by the dealer, (iii) the current certificate of title shall be appropriately executed by the registered owner to reflect the release of all of its ownership interests, and (iv) the dealer shall release all of its ownership interests in the manufactured home or mobilehome either contemporaneously upon the payment of a specified amount from the escrow account or at the close of escrow where the buyer has executed a security agreement approved by the dealer covering the unpaid balance of the purchase price.

(3) That, in the alternative, the legal owner and each junior lienholder, respectively, shall either:

(A) Release his or her security interest or transfer its security interest to a designated third party contemporaneously upon the payment of a specified amount from the escrow account.

(B) Advise the escrow agent in writing that the new buyer or the buyer's stated designee shall be approved as the new registered owner upon the execution by the buyer of a formal assumption of the indebtedness secured by his or her lien approved by the creditor at or before the close of escrow.

(d) For every sale by a dealer of a used manufactured home or mobilehome:

(1) The dealer shall present the buyer's offer to purchase the manufactured home or mobilehome to the seller in written form signed by the buyer. The seller, upon accepting the offer to purchase, shall sign and date the form. Copies of the fully executed form shall be presented to both the buyer and seller, with the original copy retained by the dealer. Any portion of the form that reflects the commission charged by the dealer to the seller need not be disclosed to the buyer.

(2) The escrow agent, upon receipt of notification from the dealer that the seller has accepted the buyer's offer to purchase and receipt of mutually endorsed escrow instructions, shall, within three working days, prepare a notice of escrow opening on the form prescribed by the department and forward the completed form to the department with appropriate fees. If the escrow is cancelled for any reason before closing, the escrow agent shall prepare a notice of escrow cancellation on the form prescribed by the department and forward the completed form to the department.

(3) (A) The escrow agent shall forward to the legal owner and each junior lienholder at their addresses shown on the current registration card a written demand for a lien status report, as contemplated by Section 18035.5, and a written demand for either an

executed statement of conditional lien release or an executed statement of anticipated formal assumption, and shall enclose blank copies of a statement of conditional lien release and a statement of anticipated formal assumption on forms prescribed by the department. The statement of conditional lien release shall include, among other things, both of the following:

(i) A statement of the dollar amount or other conditions required by the creditor in order to release or transfer its lien.

(ii) The creditor's release or transfer of the lien in the manufactured home or mobilehome contingent upon the satisfaction of those conditions.

(B) The statement of anticipated formal assumption shall include, among other things, both of the following:

(i) A statement of the creditor's belief that the buyer will formally assume the indebtedness secured by its lien pursuant to terms and conditions which are acceptable to the creditor at or before the close of escrow.

(ii) The creditor's approval of the buyer or his or her designee as the registered owner upon the execution of the formal assumption.

(4) Within five days of the receipt of the written demand and documents required by paragraph (3), the legal owner or junior lienholder shall complete and execute either the statement of conditional lien release or, if the creditor has elected to consent to a formal assumption requested by a qualified buyer, the statement of anticipated formal assumption, as appropriate, and prepare the lien status report and forward the documents to the escrow agent by first-class mail. If the creditor is the legal owner, the certificate of ownership in an unexecuted form shall accompany the documents. If the creditor is a junior lienholder, the creditor's copy of the current registration card in an unexecuted form shall accompany the documents.

(5) If either of the following events occur, any statement of conditional lien release or statement of anticipated formal assumption executed by the creditor shall become inoperative, and the escrow agent shall thereupon return the form and the certificate of ownership or the copy of the current registration card, as appropriate, to the creditor by first-class mail:

(A) The conditions required in order for the creditor to release or transfer his or her lien are not satisfied before the end of the escrow period agreed upon in writing between the buyer and the seller or, if applicable, before the end of any extended escrow period as permitted by subdivision (g).

(B) The registered owner advises the creditor not to accept any satisfaction of his or her lien or not to permit any formal assumption of the indebtedness and the creditor or registered owner advises the escrow agent in writing accordingly.

(6) If a creditor willfully fails to comply with the requirements of paragraph (4) within 21 days of the receipt of the written demand and documents required by paragraph (3), the creditor shall forfeit

to the escrow agent three hundred dollars ($300), except where the creditor has reasonable cause for noncompliance. The three hundred dollars ($300) shall be credited to the seller, unless otherwise provided in the escrow instructions. Any penalty paid by a creditor under this paragraph shall preclude any civil liability for noncompliance with Section 18035.5 relating to the same act or omission.

(e) For every sale by a dealer of a new or used manufactured home or mobilehome, the escrow instructions shall specify one of the following:

(1) Upon the buyer receiving delivery of an installed manufactured home or mobilehome on the site and the manufactured home or mobilehome passing inspection pursuant to Section 18613 or after the manufactured home or mobilehome has been delivered to the location specified in the escrow instructions when the installation is to be performed by the buyer, all funds in the escrow account, other than escrow fees and amounts for accessories not yet delivered, shall be disbursed.

(2) Upon the buyer receiving delivery of an installed manufactured home or mobilehome not subject to the provisions of Section 18613 with delivery requirements as mutually agreed to and set forth in the sales documents, all funds in the escrow account, other than escrow fees, shall be disbursed.

(f) In the event any dispute arises between the parties to the escrow and upon notification in writing to the escrow agent, unless otherwise specified in the escrow instructions, all funds denoted as deposit shall be held in escrow until a release is signed by the disputing party, or pursuant to new written escrow instructions signed by the parties involved, or pursuant to a final order for payment or division by a court of competent jurisdiction. Any other funds, other than escrow fees, shall be returned to the buyer or any person, other than the dealer or seller, as appropriate.

(g) Escrow shall be for a period of time mutually agreed upon, in writing, by the buyer and the seller. However, the parties may, by mutual consent, extend the time, in writing, with notice to the escrow agent.

(h) No dealer or seller shall establish with an escrow agent any escrow account in an escrow company in which the dealer or seller has more than a 5 percent ownership interest.

(i) The escrow instructions may provide for the proration of any local property tax due or to become due on the manufactured home or mobilehome, and if the tax, or the license fee imposed pursuant to Section 18115, or the registration fee imposed pursuant to Section 18114, is delinquent, the instructions may provide for the payment of the taxes or fees, or both, and any applicable penalties.

(j) For every sale by a dealer of a new or used manufactured home or mobilehome, the escrow instructions shall provide that the payment of any fee, charge, dedication, or other form of requirement levied by a school district pursuant to Section 53080 of the

Government Code be made to the appropriate school district upon the close of escrow, except where the school district has certified compliance with that fee, charge, dedication, or other form of requirement.

(k) No agreement shall contain any provision by which the buyer waives his or her rights under this section, and any waiver shall be deemed contrary to public policy and shall be void and unenforceable.

(*l*) If a portion of the amount in the escrow is for accessories, then that portion of the amount shall not be released until the accessories are actually installed.

(m) Upon opening escrow on a used manufactured home or mobilehome which is subject to local property taxation, and subject to registration under this part, the escrow officer may forward to the tax collector of the county in which the used manufactured home or mobilehome is located, a written demand for a tax clearance certificate, if no liability exists, or a conditional tax clearance certificate if a tax liability exists, to be provided on a form prescribed by the office of Controller. The conditional tax clearance certificate shall state the amount of the tax liability due, if any, and the final date that amount may be paid out of the proceeds of escrow before a further tax liability may be incurred.

(1) Within five working days of receipt of the written demand for a conditional tax clearance certificate or a tax clearance certificate, the county tax collector shall forward the conditional tax clearance certificate or a tax clearance certificate showing no tax liability exists to the requesting escrow officer. In the event the tax clearance certificate's or conditional tax clearance certificate's final due date expires within 30 days of date of issuance, an additional conditional tax clearance certificate or a tax clearance certificate shall be completed which has a final due date of at least 30 days beyond the date of issuance.

(2) If the tax collector on which the written demand for a tax clearance certificate or a conditional tax clearance certificate was made fails to comply with that demand within 30 days from the date the demand was mailed, the escrow officer may close the escrow and submit a statement of facts certifying that the written demand was made on the tax collector and the tax collector failed to comply with that written demand within 30 days. This statement of facts may be accepted by the department in lieu of a conditional tax clearance certificate or a tax clearance certificate, as prescribed by subdivision (a) of Section 18092.7, and the transfer of ownership may be completed.

(3) The escrow officer may satisfy the terms of the conditional tax clearance certificate by paying the amount of tax liability shown on the form by the tax collector out of the proceeds of escrow on or before the date indicated on the form and by certifying in the space provided on the form that all terms and conditions of the conditional tax clearance certificate have been complied with.

(n) This section creates a civil cause of action against a buyer or dealer or other seller who violates this section, and upon prevailing, the plaintiff in the action shall be awarded actual damages, plus an amount not in excess of two thousand dollars ($2,000). In addition, attorney's fees and court costs shall also be awarded a plaintiff who prevails in the action.

SEC. 2.7. Section 18035 of the Health and Safety Code, as amended by Section 2 of this act, is amended to read:

18035. (a) For every sale by a dealer of a new or used manufactured home or mobilehome subject to registration under this part, the dealer shall execute in writing and obtain the buyer's signature on a purchase order, conditional sale contract, or other document evidencing the purchase contemporaneous with, or prior to, the receipt of any cash or cash equivalent from the buyer, shall establish an escrow account with an escrow agent, and shall cause to be deposited into that escrow account any cash or cash equivalent received at any time prior to the close of escrow as a deposit, downpayment, or whole or partial payment for the manufactured home or mobilehome or accessory thereto. The downpayment, or whole or partial payment, shall include an amount designated as a deposit, which may be less than, or equal to, the total amount placed in escrow, and shall be subject to the provisions of subdivision (f). The parties shall provide for escrow instructions that identify the fixed amounts of the deposit, downpayment, and balance due prior to closing consistent with the amounts set forth in the purchase documents and receipt for deposit if one is required by Section 18035.1. The deposits shall be made by the dealer within three working days of receipt, one of which shall be the day of receipt. For purposes of this section, "cash equivalent" means any property, other than cash. If an item of cash equivalent is, due to its size, incapable of physical delivery to the escrow holder, the property may be held by the dealer for the purchaser until close of escrow and, if the property has been registered with the department or the Department of Motor Vehicles, its registration certificate and, if available, its certificate of title shall be delivered to the escrow holder.

(b) For every sale by a dealer of a new manufactured home or mobilehome, the escrow instructions shall provide all of the following:

(1) That the original manufacturer's certificate of origin be placed in escrow.

(2) That, in the alternative, either of the following shall occur:

(A) The lien of any inventory creditor on the manufactured home or mobilehome shall be satisfied by payment from the escrow account.

(B) The inventory creditor shall consent in writing to other than full payment.

For purposes of this paragraph, "inventory creditor" includes any person who is identified as a creditor on the manufacturer's

certificate of origin or any person who places the original certificate of origin in escrow and claims in writing to the escrow agent to have a purchase money security interest in the manufactured home or mobilehome, as contemplated by Section 9107 of the Commercial Code.

(3) That the escrow agent shall obtain from the manufacturer a true and correct facsimile of the copy of the certificate of origin retained by the manufacturer pursuant to Section 18093.

(c) For every sale by a dealer of a used manufactured home or mobilehome, the escrow instructions shall provide:

(1) That the current registration card, all copies of the registration cards held by junior lienholders, and the certificate of title be placed in escrow.

(2) That, in the alternative, either of the following shall occur:

(A) (i) The registered owner shall acknowledge in writing the amount of the commission to be received by the dealer for the sale of the manufactured home or mobilehome, and (ii) the registered owner shall release all of its ownership interests in the manufactured home or mobilehome either contemporaneously upon the payment of a specified amount from the escrow account or at the close of the escrow where the buyer has executed a security agreement approved by the registered owner covering the unpaid balance of the purchase price.

(B) (i) The dealer shall declare in writing that the manufactured home or mobilehome is its inventory, (ii) the registered owner shall acknowledge in writing that the purchase price relating to the sale of the manufactured home or mobilehome to the dealer for resale has been paid in full by the dealer, (iii) the current certificate of title shall be appropriately executed by the registered owner to reflect the release of all of its ownership interests, and (iv) the dealer shall release all of its ownership interests in the manufactured home or mobilehome either contemporaneously upon the payment of a specified amount from the escrow account or at the close of escrow where the buyer has executed a security agreement approved by the dealer covering the unpaid balance of the purchase price.

(3) That, in the alternative, the legal owner and each junior lienholder, respectively, shall either:

(A) Release his or her security interest or transfer its security interest to a designated third party contemporaneously upon the payment of a specified amount from the escrow account.

(B) Advise the escrow agent in writing that the new buyer or the buyer's stated designee shall be approved as the new registered owner upon the execution by the buyer of a formal assumption of the indebtedness secured by his or her lien approved by the creditor at or before the close of escrow.

(d) For every sale by a dealer of a used manufactured home or mobilehome:

(1) The dealer shall present the buyer's offer to purchase the manufactured home or mobilehome to the seller in written form

signed by the buyer. The seller, upon accepting the offer to purchase, shall sign and date the form. Copies of the fully executed form shall be presented to both the buyer and seller, with the original copy retained by the dealer. Any portion of the form that reflects the commission charged by the dealer to the seller need not be disclosed to the buyer.

(2) The escrow agent, upon receipt of notification from the dealer that the seller has accepted the buyer's offer to purchase and receipt of mutually endorsed escrow instructions, shall, within three working days, prepare a notice of escrow opening on the form prescribed by the department and forward the completed form to the department with appropriate fees. If the escrow is cancelled for any reason before closing, the escrow agent shall prepare a notice of escrow cancellation on the form prescribed by the department and forward the completed form to the department.

(3) (A) The escrow agent shall forward to the legal owner and each junior lienholder at their addresses shown on the current registration card a written demand for a lien status report, as contemplated by Section 18035.5, and a written demand for either an executed statement of conditional lien release or an executed statement of anticipated formal assumption, and shall enclose blank copies of a statement of conditional lien release and a statement of anticipated formal assumption on forms prescribed by the department. The statement of conditional lien release shall include, among other things, both of the following:

(i) A statement of the dollar amount or other conditions required by the creditor in order to release or transfer its lien.

(ii) The creditor's release or transfer of the lien in the manufactured home or mobilehome contingent upon the satisfaction of those conditions.

(B) The statement of anticipated formal assumption shall include, among other things, both of the following:

(i) A statement of the creditor's belief that the buyer will formally assume the indebtedness secured by its lien pursuant to terms and conditions which are acceptable to the creditor at or before the close of escrow.

(ii) The creditor's approval of the buyer or his or her designee as the registered owner upon the execution of the formal assumption.

(4) Within five days of the receipt of the written demand and documents required by paragraph (3), the legal owner or junior lienholder shall complete and execute either the statement of conditional lien release or, if the creditor has elected to consent to a formal assumption requested by a qualified buyer, the statement of anticipated formal assumption, as appropriate, and prepare the lien status report and forward the documents to the escrow agent by first-class mail. If the creditor is the legal owner, the certificate of ownership in an unexecuted form shall accompany the documents. If the creditor is a junior lienholder, the creditor's copy of the current registration card in an unexecuted form shall accompany the

documents.

(5) If either of the following events occur, any statement of conditional lien release or statement of anticipated formal assumption executed by the creditor shall become inoperative, and the escrow agent shall thereupon return the form and the certificate of ownership or the copy of the current registration card, as appropriate, to the creditor by first-class mail:

(A) The conditions required in order for the creditor to release or transfer his or her lien are not satisfied before the end of the escrow period agreed upon in writing between the buyer and the seller or, if applicable, before the end of any extended escrow period as permitted by subdivision (g).

(B) The registered owner advises the creditor not to accept any satisfaction of his or her lien or not to permit any formal assumption of the indebtedness and the creditor or registered owner advises the escrow agent in writing accordingly.

(6) If a creditor willfully fails to comply with the requirements of paragraph (4) within 21 days of the receipt of the written demand and documents required by paragraph (3), the creditor shall forfeit to the escrow agent three hundred dollars ($300), except where the creditor has reasonable cause for noncompliance. The three hundred dollars ($300) shall be credited to the seller, unless otherwise provided in the escrow instructions. Any penalty paid by a creditor under this paragraph shall preclude any civil liability for noncompliance with Section 18035.5 relating to the same act or omission.

(e) For every sale by a dealer of a new or used manufactured home or mobilehome, the escrow instructions shall specify one of the following:

(1) Upon the buyer receiving delivery of an installed manufactured home or mobilehome on the site and the manufactured home or mobilehome passing inspection pursuant to Section 18613 or after the manufactured home or mobilehome has been delivered to the location specified in the escrow instructions when the installation is to be performed by the buyer, all funds in the escrow account, other than escrow fees and amounts for accessories not yet delivered, shall be disbursed.

(2) Upon the buyer receiving delivery of an installed manufactured home or mobilehome not subject to the provisions of Section 18613 with delivery requirements as mutually agreed to and set forth in the sales documents, all funds in the escrow account, other than escrow fees, shall be disbursed.

(f) In the event any dispute arises between the parties to the escrow and upon notification in writing to the escrow agent, unless otherwise specified in the escrow instructions, all funds denoted as deposit shall be held in escrow until a release is signed by the disputing party, or pursuant to new written escrow instructions signed by the parties involved, or pursuant to a final order for payment or division by a court of competent jurisdiction. Any other

funds, other than escrow fees, shall be returned to the buyer or any person, other than the dealer or seller, as appropriate.

(g) Escrow shall be for a period of time mutually agreed upon, in writing, by the buyer and the seller. However, the parties may, by mutual consent, extend the time, in writing, with notice to the escrow agent.

(h) No dealer or seller shall establish with an escrow agent any escrow account in an escrow company in which the dealer or seller has more than a 5 percent ownership interest.

(i) The escrow instructions may provide for the proration of any local property tax due or to become due on the manufactured home or mobilehome, and if the tax, or the license fee imposed pursuant to Section 18115, or the registration fee imposed pursuant to Section 18114, is delinquent, the instructions may provide for the payment of the taxes or fees, or both, and any applicable penalties.

(j) For every sale by a dealer of a new or used manufactured home or mobilehome, the escrow instructions shall provide that the payment of any fee, charge, dedication, or other form of requirement levied by a school district pursuant to Section 53080 of the Government Code be made to the appropriate school district upon the close of escrow, except where the school district has certified compliance with that fee, charge, dedication, or other form of requirement.

(k) No agreement shall contain any provision by which the buyer waives his or her rights under this section, and any waiver shall be deemed contrary to public policy and shall be void and unenforceable.

(*l*) If a portion of the amount in the escrow is for accessories, then that portion of the amount shall not be released until the accessories are actually installed.

(m) Upon opening escrow on a used manufactured home or mobilehome which is subject to local property taxation, and subject to registration under this part, the escrow officer may forward to the tax collector of the county in which the used manufactured home or mobilehome is located, a written demand for a tax clearance certificate, if no liability exists, or a conditional tax clearance certificate if a tax liability exists, to be provided on a form prescribed by the office of Controller. The conditional tax clearance certificate shall state the amount of the tax liability due, if any, and the final date that amount may be paid out of the proceeds of escrow before a further tax liability may be incurred.

(1) Within five working days of receipt of the written demand for a conditional tax clearance certificate or a tax clearance certificate, the county tax collector shall forward the conditional tax clearance certificate or a tax clearance certificate showing no tax liability exists to the requesting escrow officer. In the event the tax clearance certificate's or conditional tax clearance certificate's final due date expires within 30 days of date of issuance, an additional conditional tax clearance certificate or a tax clearance certificate shall be

completed which has a final due date of at least 30 days beyond the date of issuance.

(2) If the tax collector on which the written demand for a tax clearance certificate or a conditional tax clearance certificate was made fails to comply with that demand within 30 days from the date the demand was mailed, the escrow officer may close the escrow and submit a statement of facts certifying that the written demand was made on the tax collector and the tax collector failed to comply with that written demand within 30 days. This statement of facts may be accepted by the department in lieu of a conditional tax clearance certificate or a tax clearance certificate, as prescribed by subdivision (a) of Section 18092.7, and the transfer of ownership may be completed.

(3) The escrow officer may satisfy the terms of the conditional tax clearance certificate by paying the amount of tax liability shown on the form by the tax collector out of the proceeds of escrow on or before the date indicated on the form and by certifying in the space provided on the form that all terms and conditions of the conditional tax clearance certificate have been complied with.

(n) This section creates a civil cause of action against a buyer or dealer or other seller who violates this section, and upon prevailing, the plaintiff in the action shall be awarded actual damages, plus an amount not in excess of two thousand dollars ($2,000). In addition, attorney's fees and court costs shall also be awarded a plaintiff who prevails in the action.

SEC. 3. Section 18035.2 of the Health and Safety Code is amended to read:

18035.2. (a) For every sale by a dealer of a new or used manufactured home or mobilehome to be installed on a foundation system pursuant to Section 18551, the dealer shall execute in writing and obtain the buyer's signature on a purchase order, conditional sale contract, or other document evidencing the purchase, and provide a statement of fact complying with subdivision (b) of Section 18035.1, contemporaneous with or prior to the receipt of any cash or cash equivalent from the buyer and shall establish an escrow account with an escrow agent. The escrow shall not be subject to the provisions of Section 18035.

(b) For every sale by a dealer of a new manufactured home or mobilehome installed or to be installed on a foundation system pursuant to Section 18551, the escrow instructions shall provide all of the following:

(1) That the original manufacturer's certificate of origin be placed in escrow.

(2) That, in the alternative:

(A) The lien of any inventory creditor on the manufactured home or mobilehome shall be satisified by payment from the escrow account.

(B) That inventory creditor shall consent in writing to other than full payment.

For purposes of this paragraph, "inventory creditor" includes any person who is identified as a creditor on the manufacturer's certificate of origin or any person who places the original certificate of origin in escrow and claims in writing to the escrow agent to have a purchase money security interest in the manufactured home or mobilehome as contemplated by Section 9107 of the Commercial Code.

(3) That the escrow agent shall obtain from the manufacturer a true and correct facsimile of the copy of the certificate of origin retained by the manufacturer pursuant to Section 18093.

(c) For every sale by a dealer of a new or used manufactured home or mobilehome, the escrow instructions shall provide that the payment of any fee, charge, dedication, or other form of requirement levied by a school district pursuant to Section 53080 of the Government Code be made to the appropriate school district upon the close of escrow, except where the school district has certified compliance with the fee, charge, dedication, or other form of requirement.

SEC. 3.5. (a) Section 2.3 of this bill incorporates certain amendments to Section 18035 of the Health and Safety Code proposed by both this bill and AB 2109. It shall become operative only if (1) both bills are enacted and become effective on or before January 1, 1988, but this bill becomes operative first, (2) each bill amends Section 18035 of the Health and Safety Code, (3) AB 2481 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2109, in which case Sections 2.5 and 2.7 of this bill shall not become operative, and Section 18035 of the Health and Safety Code, as amended by Section 2 of this bill, shall remain operative only until the operative date of AB 2109, at which time Section 2.5 of this bill shall become operative.

(b) Section 2.5 of this bill incorporates amendments to Section 18035 of the Health and Safety Code proposed by both this bill and AB 2481. It shall become operative only if (1) both bills are enacted and become effective on or before January 1, 1988, but this bill becomes operative first, (2) each bill amends Section 18035 of the Health and Safety Code, (3) AB 2109 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2481, in which case Sections 2.3 and 2.7 of this bill shall not become operative, and Section 18035 of the Health and Safety Code, as amended by Section 2 of this bill, shall remain operative only until the operative date of AB 2481, at which time Section 2.5 of this bill shall become operative.

(c) Section 2.7 of this bill incorporates certain amendments to Section 18035 of the Health and Safety Code proposed by this bill, AB 2109, and AB 2481. It shall become operative only if (1) all three bills are enacted and become effective on or before January 1, 1988, but this bill becomes operative first, (2) all three bills amend Section 18035 of the Health and Safety Code, and (3) this bill is enacted after AB 2109 and AB 2481, in which case Sections 2.3 and 2.5 of this bill

shall not become operative, and Section 18035 of the Health and Safety Code, as amended by Section 2 of this bill, shall remain operative only until the operative date of AB 2109 and AB 2481, at which time Section 2.7 of this bill shall become operative.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement 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 avoid the adverse impact of school facilities fees currently being imposed on manufactured homes and mobilehomes, an affordable source of housing for persons of low and moderate income, it is necessary that this act take effect immediately.

CHAPTER 1347

An act to amend Section 11624 of the Insurance Code, relating to insurance.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 11624 of the Insurance Code is amended to read:

11624. The plan shall contain:

(a) Standards for determining eligibility of applicants for insurance, and in establishing those standards the following may be taken into consideration in respect to the applicant or any other person who may reasonably be expected to operate the applicant's automobile with his or her permission:

(1) His or her criminal conviction record.

(2) His or her record of suspension or revocation of a license to operate an automobile.

(3) His or her automobile accident records.

(4) His or her age and mental, physical and moral characteristics which pertain to his or her ability to safely and lawfully operate an automobile.

(5) The condition or use of the automobile.

(b) Procedures for making application for insurance, for apportionment of eligible applicants among the subscribing insurers and for appeal to the commissioner by persons who believe themselves aggrieved by the operation of the plan.

(c) A provision that the organization administering the plan shall notify the Department of Motor Vehicles regarding the name of each applicant for insurance who is rejected by the assigned risk plan and the statutory grounds for the rejection. The information contained in that notification shall be for the confidential use of the Department of Motor Vehicles.

(d) Rules and regulations governing the administration and operation of the plan.

(e) Provisions showing the basis upon which premium charges shall be made, and the manner of payment thereof. The plan shall include procedures for notifying within a reasonable time the agent, broker, or solicitor who obtained insurance under the plan for the insured of any nonpayment of premium to the insurer when notice of the nonpayment is sent to the insured pursuant to Section 662.

(f) Any other provisions as may be necessary to carry out the purpose of this article.

Section 11624 of the Insurance Code is amended to read:

11624. The plan shall contain:

(a) Standards for determining eligibility of applicants for insurance, and in establishing those standards the following may be taken into consideration in respect to the applicant or any other person who may reasonably be expected to operate the applicant's automobile with his or her permission:

(1) His or her criminal conviction record.

(2) His or her record of suspension or revocation of a license to operate an automobile.

(3) His or her automobile accident records.

(4) His or her age and mental, physical and moral characteristics which pertain to his or her ability to safely and lawfully operate an automobile.

(5) The condition or use of the automobile.

(b) Procedures for making application for insurance, for apportionment of eligible applicants among the subscribing insurers and for appeal to the commissioner by persons who believe themselves aggrieved by the operation of the plan.

(c) A provision that the organization administering the plan shall notify the Department of Motor Vehicles regarding the name of each applicant for insurance who is rejected by the assigned risk plan and the statutory grounds for the rejection. The information contained in that notification shall be for the confidential use of the Department of Motor Vehicles.

(d) Rules and regulations governing the administration and operation of the plan.

(e) Provisions showing the basis upon which premium charges shall be made, and the manner of payment thereof. The plan shall

permit, after a minimum of 20 percent of the annual premium is paid, the remaining premium to be paid in equal monthly installments over a nine-month period (designated as a 9-Pay Deferral Program) for any insurance policy issued pursuant to the plan. The plan shall also include procedures for notifying within a reasonable time the agent, broker, or solicitor who obtained insurance under the plan for the insured of any nonpayment of premium to the insured when notice of the nonpayment is sent to the insured pursuant to Section 622.

Notwithstanding any other provision of law, the commissioner shall require those participating in the 9-Pay Deferral Program to pay a charge equal to the amount needed to cover the cost to plan members for providing this payment program. The commissioner shall consult with plan members prior to setting the amount of the charge and may change the amount charged from time-to-time as needed to cover changes in costs. This charge shall be paid in equal amounts at the same time as the monthly installments are paid.

(f) Any other provisions as may be necessary to carry out the purpose of this article.

SEC. 3. Section 2 of this bill incorporates amendments to Section 11624 of the Insurance Code proposed by both this bill and SB 911. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1988, (2) each bill amends Section 11624 of the Insurance Code, and (3) this bill is enacted after SB 911, in which case Section 1 of this bill shall not become operative.

CHAPTER 1348

An act to amend Sections 14233, 14250, 14260, 14427, 14461, 14483, and 14492.5 of the Business and Professions Code, to amend Section 2104 of the Code of Civil Procedure, to amend Sections 9403, 9404, 9405, 9406, 9407.1, and 9409 of the Commercial Code, to amend Sections 15800, 21304, and 24004 of the Corporations Code, and to amend Sections 7226, 12184, 12185, 12186, 12191, 12192, 12194, 12196, 12197, 12197.1, 12199, 12206, 12207, and 12215 of, and to add Section 12216 to, the Government Code, relating to fees, and making an appropriation therefor.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 14233 of the Business and Professions Code is amended to read:

14233. The application for registration shall be accompanied by a filing fee of fifty dollars ($50), payable to the Secretary of State.

SEC. 2. Section 14250 of the Business and Professions Code is

amended to read:

14250. Registration of a mark, as provided by this chapter, shall be effective for a term of 10 years from the date of registration and, upon application filed within six months prior to the expiration of such term, on a form to be furnished by the Secretary of State for that purpose, the registration may be renewed for a like term. A renewal fee of fifty dollars ($50), payable to the Secretary of State, shall accompany the application for renewal of the registration.

A mark registration may be renewed for successive periods of 10 years in like manner.

SEC. 3. Section 14260 of the Business and Professions Code is amended to read:

14260. Any mark and its registration pursuant to this chapter shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Assignment shall be by instruments in writing duly executed and acknowledged and may be recorded with the Secretary of State upon the payment of a fee of twenty-five dollars ($25), payable to the Secretary of State who, upon recording of the assignment, shall issue in the name of the assignee a new certificate for the remainder of the term of the registration or of the last renewal thereof. An assignment of any registration under this chapter shall be void as against any subsequent purchaser for valuable consideration without notice, unless it is recorded with the Secretary of State within three months after the date thereof or prior to the subsequent purchase.

SEC. 4. Section 14427 of the Business and Professions Code is amended to read:

14427. Any person, who is engaged in the manufacture, packing, canning, bottling, or selling of any substance in containers with his or her name, or other mark or device impressed or produced thereon, or whose equipment or supplies, owned by and used in his or her business, bears a name or other mark or device impressed or produced thereon, may file in the office of the Secretary of State, a description of the name, mark or device so used, as a brand.

For filing each brand described and issuing his or her certificate of filing the Secretary of State shall charge and collect a fee of fifty dollars ($50).

SEC. 5. Section 14461 of the Business and Professions Code is amended to read:

14461. Any farm owner or lessee in this state, may upon the payment of ten dollars ($10) to the Secretary of State, have the name of his or her farm registered in a register which the Secretary of State shall keep for that purpose.

The owner or lessee shall be furnished a certificate, issued under seal, setting forth the name and location of the farm and the name of the owner.

SEC. 6. Section 14483 of the Business and Professions Code is amended to read:

14483. The registrant shall pay to the Secretary of State for filing each laundry supply designation described and for issuing a certificate of filing a fee of ten dollars ($10), and to the county clerk a fee of one dollar ($1) for each designation described and filed.

SEC. 7. Section 14492.5 of the Business and Professions Code is amended to read:

14492.5. Any organization may register any name used by it by filing a claim to it with the Secretary of State. The filing fee for the registration of any name shall be ten dollars ($10).

SEC. 8. Section 2104 of the Code of Civil Procedure is amended to read:

2104. The fee for filing and indexing each notice of lien or certificate or notice affecting the lien, whether filed for record in the office of the county recorder or filed in the office of the Secretary of State, is five dollars ($5).

The officer shall bill the district directors of internal revenue or other appropriate federal officials on a monthly basis for fees for documents filed by them.

SEC. 9. Section 9403 of the Commercial Code is amended to read:

9403. (1) Presentation for filing of a financing statement, tender of the filing fee and acceptance of the statement by the filing officer constitutes filing under this division.

(2) Except as provided in subdivision (6), a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of such five-year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of 60 days or until expiration of the five-year period, whichever occurs later. Upon such lapse the security interest becomes unperfected unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse. If a fixture filing is effective at the time insolvency proceedings are commenced by or against the debtor, the fixture filing remains effective until termination of the insolvency proceedings and thereafter for a period of 60 days or until expiration of the five-year period or termination pursuant to subdivision (6), whichever occurs later. Upon lapse of a fixture filing, it is deemed to have been ineffective as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party of record within six months prior to the expiration of the five-year period specified in subdivision (2). Any such continuation statement must be signed by the secured party of record, identify the original statement by giving the date and the names of the parties thereto and the file number thereof and state that the original statement is

continued. A continuation statement filed to continue the effectiveness of a financing statement filed as a fixture filing (Section 9313) is not effective unless the following requirements are met:

(a) If the debtor did not have an interest of record in the real estate as of the date of the filing of the original statement, the continuation statement shall contain the name of a record owner of the real estate as of the date of the filing of the original statement.

(b) The continuation statement shall contain substantially the following statement: "This continuation statement is filed to continue the effectiveness of a financing statement filed as a fixture filing"; provided, that such statement shall clearly indicate the intent to continue the effectiveness of a financing statement as a fixture filing.

Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subdivision (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. The filing officer may remove a lapsed financing statement and related filings from the files and destroy them immediately if he or she has retained a microfilm or other photographic record, or in other cases after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he or she physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under subdivision (6) shall be retained. The filing officer shall not destroy a financing statement and related filings as to which he or she has received written notice that there is an action pending relative thereto or that insolvency proceedings have been commenced by or against the debtor.

(4) Except as provided in subdivision (7) a filing officer shall mark each financing statement with a consecutive file number and with the date and time of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall index the statement according to the name of the debtor and shall note in the index the file number and the address of the debtor given in this statement. The filing officer shall mark each continuation statement with the date and time of filing and shall index the same under the file number of the original financing statement.

(5) The uniform fee for filing, indexing and furnishing filing data (subdivision (1) of Section 9407) for an original financing statement, an amendment or a continuation statement shall be five dollars ($5) if the statement is in the standard form prescribed by the Secretary of State and otherwise shall be six dollars ($6).

(6) If the debtor is a transmitting utility (subdivision (5) of

Section 9401) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subdivision (6) of Section 9402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) A financing or continuation statement covering collateral described in paragraph (b) of subdivision (1) of Section 9401 or filed as a fixture filing shall be recorded and indexed by the filing officer in the real property index of grantors under the name of the debtor and any owner of record shown on the financing statement. A financing or continuation statement so recorded and indexed and containing a description of real property affected thereby shall constitute constructive notice from the time of its acceptance for recording to any purchaser or encumbrancer of the real property of the security interest in such collateral.

SEC. 10. Section 9404 of the Commercial Code is amended to read:

9404. (1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party of record must on written demand by the debtor send the debtor a statement that he or she no longer claims a security interest under the financing statement, which shall be identified by date, names of parties thereto and file number. If the affected secured party of record fails to send such a termination statement within 10 days after proper demand therefor he or she shall be liable to the debtor for all actual damages suffered by the debtor by reason of such failure, and if the failure is in bad faith for a penalty of one hundred dollars ($100).

(2) The filing officer shall mark each such termination statement with the date and time of filing and shall index the same under the name of the debtor and under the file number of the original financing statement. If the filing officer has a microfilm or other photographic record of the financing statement and related filings, the filing officer may remove the originals from the files at any time after receipt of the termination statement and destroy them, or if he or she has no such record, he or she may remove them from his or her files at any time after one year after receipt of the termination statement and destroy them.

(3) The uniform fee for filing, indexing and furnishing filing data (subdivision (1) of Section 9407) for a termination statement shall be five dollars ($5) if the statement is in the standard form prescribed by the Secretary of State and otherwise shall be six dollars ($6).

SEC. 11. Section 9405 of the Commercial Code is amended to read:

9405. (1) A secured party of record may by a writing release his or her security interest in all or a part of the collateral covered by a filed financing statement. A statement of release is sufficient if it is signed by the secured party of record, contains a statement

describing the collateral being released, the name and address of the debtor, and the file number of the original financing statement.

(2) The filing officer shall mark each such statement with the date and time of filing and index the same under the name of the debtor and under the file number of the original financing statement.

(3) The uniform fee for filing, indexing and furnishing filing data (subdivision (1) of Section 9407) for a statement of release on a form conforming to standards prescribed by the Secretary of State shall be five dollars ($5) or, if such a statement otherwise conforms to the requirements of this section, six dollars ($6).

SEC. 12. Section 9406 of the Commercial Code is amended to read:

9406. (1) If a secured party assigns or transfers his or her security interest in any collateral as to which a financing statement has been filed, a statement of such assignment may be filed. Such statement shall be signed by the secured party, describe the collateral as to which the security interest has been assigned, give the name and mailing address of the assignee or transferee, the name and address of the debtor and the file number of the original financing statement.

(2) The filing officer shall mark each such statement of assignment or transfer with the date and time of filing and shall index the same under the name of the debtor and under the file number of the original financing statement.

(3) A statement of assignment may be filed at the time of the filing of the financing statement, in which event the filing officer shall first file the financing statement and index the assignment under the name of the debtor and under the file number given the financing statement. An assignment endorsed on the financing statement before it is filed with the filing officer need not be indexed by the filing officer.

(4) The uniform fee for filing, indexing and furnishing filing data (subdivision (1) of Section 9407) for a separate statement of assignment on a form conforming to standards prescribed by the Secretary of State shall be five dollars ($5) or, if such a statement otherwise conforms to the requirements of this section, six dollars ($6).

(5) Whenever a continuation statement, an amendment to a financing statement, a termination statement, a statement of release or a statement of assignment signed by one other than the secured party of record is presented for filing it must be accompanied by a statement of assignment signed by the secured party of record covering the collateral to which such continuation statement, amendment, termination statement, release, or assignment applies.

(6) Wherever in this code reference is made to the secured party of record it means the secured party named in the original financing statement or, if a statement of assignment has been filed, or an assignee has been named in the financing statement before it is filed, the assignee or transferee of the security interest in the collateral affected. Any continuation statement, amendment to a financing

statement, termination statement, statement of release or statement of assignment signed by one other than the secured party of record as to the collateral affected thereby shall be ineffective for any purpose except as between the parties thereto.

SEC. 13. Section 9407.1 of the Commercial Code is amended to read:

9407.1. In lieu of filing all financing statements, termination statements, partial releases, assignments, or other related papers falling under this code, the filing officer may record those papers. The filing officer may employ a system of microphotography, optical disk, or reproduction by other techniques which do not permit additions, deletions, or changes to the original document.

All film used in the microphotography process shall comply with minimum standards of quality approved by the United States Bureau of Standards and the American National Standards Institute. A true copy of the microfilm or optical disk shall be kept in a safe and separate place for security purposes. Reproduction of any document filed on microfilm or stored on optical disk pursuant to this section shall be admissible in any court of law.

SEC. 14. Section 9409 of the Commercial Code is amended to read:

9409. (a) Upon request of any person, the Secretary of State shall issue a combined certificate showing the information as to financing statements as specified in Section 9407, the information as to state tax liens as specified in Section 7226 of the Government Code, the information as to attachment liens as specified in Sections 488.375 and 488.405 of the Code of Civil Procedure, the information as to judgment liens as specified in Section 697.580 of the Code of Civil Procedure, and, if the name requested appears to be other than an individual, the information as to federal liens as specified in Section 2103 of the Code of Civil Procedure. The fee for such a combined certificate is eleven dollars ($11).

(b) The Secretary of State shall construe a request for a certificate as one for a combined certificate pursuant to this section unless the request is specifically limited to federal liens, state tax liens, judgment liens, or attachment liens.

SEC. 15. Section 15800 of the Corporations Code is amended to read:

15800. Every partnership, other than a foreign limited partnership subject to Chapter 3 (commencing with Section 15691) of Title 2 of the Corporations Code or a commercial or banking partnership established and transacting business in a place without the United States, which is domiciled without this state and has no regular place of business within this state, shall, within 40 days from the time it commences to do business in this state, file a statement in the office of the Secretary of State in accordance with Section 24003 designating some natural person or corporation as the agent of the partnership upon whom process issued by authority of or under any law of this state directed against the partnership may be served.

A copy of the designation, duly certified by the Secretary of State, is sufficient evidence of the appointment.

The process may be served in the manner provided in subdivision (e) of Section 24003 on the person so designated, or, in the event that no such person has been designated, or if the agent designated for the service of process is a natural person and cannot be found with due diligence at the address stated in the designation, or if the agent is a corporation and no person can be found with due diligence to whom the delivery authorized by subdivision (e) of Section 24003 may be made for the purpose of delivery to the corporate agent, or if the agent designated is no longer authorized to act, then service may be made by personal delivery to the Secretary of State, Assistant Secretary of State, or a Deputy Secretary of State of the process, together with a written statement signed by the party to the action seeking the service, or by the party's attorney, setting forth the last known address of the partnership and a service fee of fifty dollars ($50). The Secretary of State shall forthwith give notice of the service to the partnership by forwarding the process to it by registered mail, return receipt requested, at the address given in the written statement.

Service on the person designated, or personal delivery of the process and statement of address together with a service fee of fifty dollars ($50) to the Secretary of State, Assistant Secretary of State, or a Deputy Secretary of State, pursuant to this section is a valid service on the partnership. The partnership so served shall appear within 30 days after service on the person designated or within 30 days after delivery of the process to the Secretary of State, Assistant Secretary of State, or a Deputy Secretary of State.

SEC. 16. Section 21304 of the Corporations Code is amended to read:

21304. The Secretary of State shall charge and collect a fee of ten dollars ($10) for each registration made under this chapter. All such fees shall be deposited in the State Treasury to the credit of the General Fund.

SEC. 17. Section 24004 of the Corporations Code is amended to read:

24004. (a) The Secretary of State shall mark each statement filed under Section 24003 with a consecutive file number and the date of filing. He or she may destroy or otherwise dispose of any such statement four years after the statement expires. In lieu of retaining the original statement, the Secretary of State may retain a copy thereof in accordance with Section 14756 of the Government Code.

(b) The Secretary of State shall index each statement filed under Section 24003 according to the name of the unincorporated association as set out in the statement and shall enter in the index the file number and the address of the association as set out in the statement and, if an agent for service of process is designated in the statement, the name of the agent and, if a natural person is designated as the agent, the address of that person.

(c) Upon request of any person, the Secretary of State shall issue a certificate showing whether, according to the records of the office of the Secretary of State, there is on file on the date and hour stated therein, any presently effective statement filed under Section 24003 for an unincorporated association using a specific name designated by the person making the request. If such a statement is on file, the certificate shall include the information required by subdivision (b) to be included in the index. The fee for such a certificate is five dollars ($5).

(d) When a statement has expired under subdivision (d) of Section 24003, the Secretary of State shall enter that fact in the index together with the date of the expiration.

(e) Four years after a statement has expired, the Secretary of State may delete the information concerning that statement from the index.

SEC. 19. Section 7226 of the Government Code is amended to read:

7226. Upon request of any person, the Secretary of State shall issue his or her certificate showing whether there is on file, on the date and hour stated therein, any certificate or notice of state tax lien naming a particular person, and if a certificate or notice is on file, giving the date and hour of filing of each certificate or notice. The fee for the certificate issued by the Secretary of State is eleven dollars ($11). Upon request, the Secretary of State shall furnish a copy of any certificate or notice filed pursuant to this chapter for a fee of one dollar ($1) per page. A combined certificate may be issued pursuant to Section 7203.

SEC. 20. Section 12184 of the Government Code is amended to read:

12184. The fee for preparing a copy of any law, resolution, record, or other document on file in the office of the Secretary of State, is one dollar ($1) for the first page, and fifty cents ($0.50) for each page thereafter.

SEC. 21. Section 12185 of the Government Code is amended to read:

12185. The fee for filing a designation of agent for or on behalf of any person, partnership, or firm, but not including a corporation, is twenty-five dollars ($25).

SEC. 22. Section 12186 of the Government Code is amended to read:

12186. Except as provided in Section 12209, the fee for comparing a copy of any law, resolution, record, or other document or paper with the original, or the certified copy of the original, on file in the office of the Secretary of State, is three dollars ($3).

SEC. 23. Section 12191 of the Government Code is amended to read:

12191. The fee for registering farm, ranch, or villa names, including the issuance of certificates of the registration, is ten dollars ($10).

SEC. 24. Section 12192 of the Government Code is amended to read:

12192. The fee for filing claim to trademark and issuing a certificate of filing is fifty dollars ($50).

SEC. 25. Section 12194 of the Government Code is amended to read:

12194. The fee for filing a certified copy of a decree changing the name of a natural person is ten dollars ($10).

SEC. 26. Section 12196 of the Government Code is amended to read:

12196. The fee for issuing a certificate of official character is twenty dollars ($20).

SEC. 27. Section 12197 of the Government Code is amended to read:

12197. The fee for attesting each commission, passport, or other document signed by the Governor is ten dollars ($10).

A fee shall not be charged for attesting pardons, extradition papers, military commissions, and commissions issued to nonsalaried state officers other than notaries public.

SEC. 28. Section 12197.1 of the Government Code is amended to read:

12197.1. The Secretary of State shall establish by regulation an application, examination, and commission fee which shall be sufficient to cover the costs of commissioning notaries public and the enforcement of laws governing notaries public. The fee shall not exceed fifty dollars ($50) per commission. It is the intention of the Legislature that these funds, which are to be deposited in the General Fund, shall be used to support the notary public program to the extent that appropriations are made in the Budget Act from year to year.

SEC. 29. Section 12199 of the Government Code is amended to read:

12199. The fee for issuing a certificate of reservation of corporate name is ten dollars ($10).

SEC. 30. Section 12206 of the Government Code is amended to read:

12206. Unless another fee is specified by law or the law specifies that no fee is to be charged, the fee for acceptance of copies of process against a corporation, firm, partnership, association, business trust, or natural person is fifty dollars ($50) for each corporation, firm, partnership, association, business trust, or natural person upon whom service is sought.

SEC. 31. Section 12207 of the Government Code is amended to read:

12207. Unless another fee is specified by law:

(a) The fee for affixing the certificate and seal of the state is five dollars ($5).

(b) The fee for issuing a certificate of filing of any document not otherwise provided for is six dollars ($6).

SEC. 32. Section 12215 of the Government Code is amended to read:

12215. The fee for issuing a certificate of reservation of limited partnership name is ten dollars ($10).

SEC. 33. Section 12216 is added to the Government Code, to read:

12216. The fee for preparing a copy of any record on file in the State Archives is ten cents ($0.10) per page or fraction thereof.

SEC. 34. The sum of three hundred fifty thousand dollars ($350,000) is hereby appropriated from the General Fund to the Secretary of State for the purpose of funding an optical disk system in the event that the final acceptable bid for this system exceeds the budgeted amount of two million five hundred seventy-four thousand dollars ($2,574,000), subject to Department of Finance review and approval prior to encumbrance.

CHAPTER 1349

An act to amend Sections 56121, 56844, 57376, and 66484.3 of the Government Code, relating to local government.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 56121 of the Government Code is amended to read:

56121. No change of organization or reorganization, or any term or condition of a change of organization or reorganization, shall impair the rights of any bondholder or other creditor of any county, city, or district. Nor shall any change of organization or reorganization, or any term or condition of a change of organization or reorganization, impair the contract rights, or contracts entered into by a public entity created by a joint exercise or powers agreement established pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code. Notwithstanding any provision of this division, or of any change of organization or reorganization, or any term or condition of a change of organization or reorganization, each and every bondholder or other creditor may enforce all of his or her rights in the same manner, and to the same extent, as if the change of organization, reorganization, term, or condition had not been made. Those rights may also be enforced against agencies, and their respective officers, as follows:

(a) Annexation or detachment: against the city or district to, or from, which territory is annexed or detached.

(b) Incorporation: against the newly incorporated city.

(c) Formation: against the newly formed district.

(d) Disincorporation: against the successor county receiving distribution of the remaining assets of the disincorporated city.

(e) Dissolution: against the local agency receiving distribution of all or any part of the remaining assets of a dissolved district.

(f) Consolidation: against the consolidated successor city or district.

(g) Reorganization: against the affected city or district, successor county or newly incorporated city or newly formed district, as the case may be, for any of the above enumerated changes of organization or city incorporations which may be included in the particular reorganization.

SEC. 2. Section 56844 of the Government Code is amended to read:

56844. Any change of organization or reorganization may provide for, or be made subject to one or more of, the following terms and conditions. However, none of the following terms and conditions shall directly regulate land use, property development, or subdivision requirements:

(a) The payment of a fixed or determinable amount of money, either as a lump sum or in installments, for the acquisition, transfer, use or right of use of all or any part of the existing property, real or personal, of any city, county, or district.

(b) The levying or fixing and the collection of any of the following, for the purpose of providing for any payment required pursuant to subdivision (a):

(1) Special, extraordinary, or additional taxes or assessments.

(2) Special, extraordinary, or additional service charges, rentals, or rates.

(3) Both taxes or assessments and service charges, rentals, or rates.

(c) The imposition, exemption, transfer, division, or apportionment, as among any affected cities, affected counties, affected districts, and affected territory of liability for payment of all or any part of principal, interest, and any other amounts which shall become due on account of all or any part of any outstanding or then authorized but thereafter issued bonds, including revenue bonds, or other contracts or obligations of any city, county, district, or any improvement district within a local agency, and the levying or fixing and the collection of any (1) taxes or assessments, or (2) service charges, rentals, or rates, or (3) both taxes or assessments and service charges, rentals, or rates, in the same manner as provided in the original authorization of the bonds and in the amount necessary to provide for that payment.

(d) If, as a result of any term or condition made pursuant to subdivision (c), the liability of any affected city, affected county, or affected district for payment of the principal of any bonded indebtedness is increased or decreased, the term and condition may specify the amount, if any, of that increase or decrease which shall be included in, or excluded from, the outstanding bonded indebtedness of that entity for the purpose of the application of any

statute or charter provision imposing a limitation upon the principal amount of outstanding bonded indebtedness of the entity.

(e) The formation of a new improvement district or districts or the annexation or detachment of territory to, or from, any existing improvement district or districts.

(f) The incurring of new indebtedness or liability by, or on behalf of, all or any part of any local agency, including territory being annexed to any local agency, or of any existing or proposed new improvement district within that local agency. The new indebtedness may be the obligation solely of territory to be annexed if the local agency has the authority to establish zones for incurring indebtedness. The indebtedness or liability shall be incurred substantially in accordance with the laws otherwise applicable to the local agency.

(g) The issuance and sale of any bonds, including authorized but unissued bonds of a local agency, either by that local agency or by a local agency designated as the successor to any local agency which is extinguished as a result of any change of organization or reorganization.

(h) The acquisition, improvement, disposition, sale, transfer, or division of any property, real or personal.

(i) The disposition, transfer, or division of any moneys or funds, including cash on hand and moneys due but uncollected, and any other obligations.

(j) The fixing and establishment of priorities of use, or right of use, of water, or capacity rights in any public improvements or facilities or of any other property, real or personal.

(k) The establishment, continuation, or termination of any office, department, or board, or the transfer, combining, consolidation, or separation of any offices, departments, or boards, or any of the functions of those offices, departments, or boards, if, and to the extent that, any of those matters is authorized by the principal act.

(*l*) The employment, transfer, or discharge of employees, the continuation, modification, or termination of existing employment contracts, civil service rights, seniority rights, retirement rights, and other employee benefits and rights.

(m) The designation of a city, county, or district, as the successor to any local agency which is extinguished as a result of any change of organization or reorganization, for the purpose of succeeding to all of the rights, duties, and obligations of the extinguished local agency with respect to enforcement, performance, or payment of any outstanding bonds, including revenue bonds, or other contracts and obligations of the extinguished local agency.

(n) The designation (1) of the method for the selection of members of the legislative body of a district or (2) the number of those members, or (3) both, where the proceedings are for a consolidation, or a reorganization providing for a consolidation or formation of a new district and the principal act provides for alternative methods of that selection or for varying numbers of those

members, or both.

(o) The initiation, conduct, or completion of proceedings on a proposal made under, and pursuant to, this division.

(p) The fixing of the effective date of any change of organization, subject to the limitations of Section 57202.

(q) Any terms and conditions authorized or required by the principal act with respect to any change of organization.

(r) The continuation or provision of any service provided at that time, or previously authorized to be provided by an official act of the local agency.

(s) The levying of assessments, including the imposition of a fee pursuant to Section 50029 or 66484.3 or the approval by the voters of general or special taxes. For the purposes of this section, imposition of a fee as a condition of the issuance of a building permit does not constitute direct regulation of land use, property development, or subdivision requirements.

(t) The continuation of any previously authorized charge, fee, assessment, or tax by a successor local agency.

(u) Any other matters necessary or incidental to any of the terms and conditions specified in this section.

SEC. 3. Section 57376 of the Government Code is amended to read:

57376. (a) If the newly incorporated city comprises territory formerly unincorporated, the city council shall, immediately following its organization and prior to performing any other official act, adopt an ordinance providing that all county ordinances previously applicable shall remain in full force and effect as city ordinances for a period of 120 days after incorporation, or until the city council has enacted ordinances superseding the county ordinances, whichever occurs first. However, if the Board of Supervisors of the County of Orange has adopted an ordinance or resolution, or both, pursuant to Section 50029 or 66484.3 prior to the effective date of an incorporation of a city within that county, that ordinance or resolution shall not be repealed or superseded by the city until the county ordinance or resolution has been repealed or superseded by the board of supervisors of that county. If the county ordinance or resolution is repealed or superseded, then within 30 days of the effective date of the ordinance or resolution repealing or superseding the county ordinance or resolution, the city council shall enact a new ordinance or resolution conforming in all respects to the action taken by the county. The ordinance enacted by the city council immediately following its organization also shall provide that no city ordinance enacted within that 120-day period of time be deemed to supersede any county ordinance unless the city ordinance specifically refers to the county ordinance, and states an intention to supersede it. Enforcement of the continuing county ordinances in the incorporated area shall be by the city, except insofar as enforcement services are furnished in accordance with Section 57384.

(b) In the event that the County of Orange and any city within that county have entered into a joint powers agreement for the purpose of constructing the bridges and major thoroughfares referred to in Sections 50029 and 66484.3, and if a newly incorporated city within that county comprises territory formerly unincorporated but within an area of benefit established pursuant to Section 66484.3, then the city shall comply in all respects with the agreement, including any subsequent modifications thereof, as if the city were a party thereto.

SEC. 4. Section 66484.3 of the Government Code is amended to read:

66484.3. (a) The Board of Supervisors of the County of Orange and the city council of any city in that county may, by ordinance, require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares.

(b) The local ordinance may require payment of fees pursuant to this section if:

(1) The ordinance refers to the circulation element of the general plan and, in the case of bridges, to the transportation provisions or flood control provisions of the general plan which identify railways, freeways, streams, or canyons for which bridge crossings are required on the general plan or local roads, and in the case of major thoroughfares, to the provisions of the circulation element which identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to or which is part of the state highway system, and the circulation element, transportation provisions, or flood control provisions have been adopted by the local agency 30 days prior to the filing of a map or application for a building permit. Bridges which are part of a major thoroughfare need not be separately identified in the transportation or flood control provisions of the general plan.

(2) The ordinance provides that there will be a public hearing held by the governing body for each area benefited. Notice shall be given pursuant to Section 65905. In addition to the requirements of Section 65905, the notice shall contain preliminary information related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment. The area of benefit may include land or improvements in addition to the land or improvements which are the subject of any map or building permit application considered at the proceedings.

(3) The ordinance provides that at the public hearing, the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment are established. The method of fee apportionment, in the case of major thoroughfares, shall not provide for higher fees on land which abuts the proposed improvement

except where the abutting property is provided direct usable access to the major thoroughfare. A description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing shall be incorporated in a resolution of the governing body, a certified copy of which shall be recorded by the governing body conducting the hearing with the Recorder of the County of Orange in which the area of benefit is located. The resolution may subsequently be modified in any respect by the governing body. Modifications shall be adopted in the same manner as the original resolution. Any modification shall be subject to the protest procedures prescribed by paragraph (6). The resolution may provide for automatic periodic adjustment of fees based upon the California Construction Cost Index prepared and published by the Department of Transportation, without further action of the governing body, including, but not limited to, public notice or hearing. The apportioned fees shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of a final map or as a condition of issuing a building permit for any of the property or portions of the property. Where the area of benefit includes lands not subject to the payment of fees pursuant to this section, the governing body shall make provision for payment of the share of improvement costs apportioned to those lands from other sources, but those sources need not be identified at the time of the adoption of the resolution.

(4) The ordinance provides that payment of fees shall not be required unless the major thoroughfares are in addition to, or a reconstruction or widening of, any existing major thoroughfares serving the area at the time of the adoption of the boundaries of the area of benefit.

(5) The ordinance provides that payment of fees shall not be required unless the planned bridge facility is an original bridge serving the area or an addition to any existing bridge facility serving the area at the time of the adoption of the boundaries of the area of benefit. Fees imposed pursuant to this section shall not be expended to reimburse the cost of existing bridge facility construction, unless these costs are incurred in connection with the construction of an addition to an existing bridge for which fees may be required.

(6) The ordinance provides that if, within the time when protests may be filed under its provisions, there is a written protest, filed with the clerk of the legislative body, by the owners of more than one-half of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of that to be benefited, then the proposed proceedings shall be abandoned, and the legislative body shall not, for one year from the filing of that written protest, commence or carry on any proceedings for the same improvement or acquisition under the provisions of this section, unless the protests are overruled by an affirmative vote of four-fifths of the legislative body.

Nothing in this section shall preclude the processing and recordation of maps in accordance with other provisions of this division if proceedings are abandoned.

Any protests may be withdrawn in writing by the owner who filed the protest, at any time prior to the conclusion of a public hearing held pursuant to the ordinance.

If any majority protest is directed against only a portion of the improvement then all further proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year, but the legislative body shall not be barred from commencing new proceedings not including any part of the improvement or acquisition so protested against. Nothing in this section shall prohibit the legislative body, within the one-year period, from commencing and carrying on new proceedings for the construction of a portion of the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with that portion of the improvement or acquisition.

(c) Fees paid pursuant to an ordinance adopted pursuant to this section shall be deposited in a planned bridge facility or major thoroughfare fund. A fund shall be established for each planned bridge facility project or each planned major thoroughfare project. If the benefit area is one in which more than one bridge or major thoroughfare is required to be constructed, a fund may be so established covering all of the bridge or major thoroughfare projects in the benefit area. Moneys in the fund shall be expended solely for the construction or reimbursement for construction of the improvement serving the area to be benefited and from which the fees comprising the fund were collected, or to reimburse the county or a city for the cost of constructing the improvement.

(d) An ordinance adopted pursuant to this section may provide for the acceptance of considerations in lieu of the payment of fees.

(e) The county or a city imposing fees pursuant to this section may advance money from its general fund or road fund to pay the cost of constructing the improvements and may reimburse the general fund or road fund from planned bridge facilities or major thoroughfares funds established to finance the construction of the improvements.

(f) The county or a city imposing fees pursuant to this section may incur an interest-bearing indebtedness for the construction of bridge facilities or major thoroughfares. The sole security for repayment of the indebtedness shall be moneys in planned bridge facilities or major thoroughfares funds.

(g) The term "construction," as used in this section, includes design, acquisition of right-of-way, administration of construction contracts, and actual construction, and also includes reasonable administrative expenses, not exceeding six hundred thousand dollars ($600,000) in any calendar year, incurred in association with those

activities.

(h) Nothing in this section shall be construed to preclude the County of Orange or any city within that county from providing funds for the construction of bridge facilities or major thoroughfares to defray costs not allocated to the area of benefit.

(i) Any city within the County of Orange may require the payment of fees in accordance with this section as to any property in an area of benefit within the city's boundaries, for facilities shown on its general plan or the county's general plan, whether the facilities are situated within or outside the boundaries of the city, and the county may expend fees for facilities or portions thereof located within cities in the county.

(j) The validity of any fee required pursuant to this section shall not be contested in any action or proceeding unless commenced within 60 days after recordation of the resolution described in paragraph (3) of subdivision (b). The provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure shall be applicable to any such action or proceeding. This subdivision shall also apply to modifications of fee programs.

(k) If the County of Orange and any city within that county have entered into a joint powers agreement for the purpose of constructing the bridges and major thoroughfares referred to in Sections 50029 and 66484.3, and if a proposed change of organization or reorganization includes any territory of an area of benefit established pursuant to Sections 50029 and 66484.3, within a successor local agency, the local agency shall not take any action that would impair, delay, frustrate, obstruct, or otherwise impede the construction of the bridges and major thoroughfares referred to in this section.

SEC. 5. Section 66484.3 of the Government Code, as amended by Section 1 of Senate Bill 1074, is amended to read:

66484.3. (a) Notwithstanding Section 53077.5, the Board of Supervisors of the County of Orange and the city council of any city in that county may, by ordinance, require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares.

(b) The local ordinance may require payment of fees pursuant to this section if:

(1) The ordinance refers to the circulation element of the general plan and, in the case of bridges, to the transportation provisions or flood control provisions of the general plan which identify railways, freeways, streams, or canyons for which bridge crossings are required on the general plan or local roads, and in the case of major thoroughfares, to the provisions of the circulation element which identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to or which is part of the state highway system, and the circulation element,

transportation provisions, or flood control provisions have been adopted by the local agency 30 days prior to the filing of a map or application for a building permit. Bridges which are part of a major thoroughfare need not be separately identified in the transportation or flood control provisions of the general plan.

(2) The ordinance provides that there will be a public hearing held by the governing body for each area benefited. Notice shall be given pursuant to Section 65905. In addition to the requirements of Section 65905, the notice shall contain preliminary information related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment. The area of benefit may include land or improvements in addition to the land or improvements which are the subject of any map or building permit application considered at the proceedings.

(3) The ordinance provides that at the public hearing, the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment are established. The method of fee apportionment, in the case of major thoroughfares, shall not provide for higher fees on land which abuts the proposed improvement except where the abutting property is provided direct usable access to the major thoroughfare. A description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing shall be incorporated in a resolution of the governing body, a certified copy of which shall be recorded by the governing body conducting the hearing with the recorder of the County of Orange. The resolution may subsequently be modified in any respect by the governing body. Modifications shall be adopted in the same manner as the original resolution. Any modification shall be subject to the protest procedures prescribed by paragraph (6). The resolution may provide for automatic periodic adjustment of fees based upon the California Construction Cost Index prepared and published by the Department of Transportation, without further action of the governing body, including, but not limited to, public notice or hearing. The apportioned fees shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of a final map or as a condition of issuing a building permit for any of the property or portions of the property. Where the area of benefit includes lands not subject to the payment of fees pursuant to this section, the governing body shall make provision for payment of the share of improvement costs apportioned to those lands from other sources, but those sources need not be identified at the time of the adoption of the resolution.

(4) The ordinance provides that payment of fees shall not be required unless the major thoroughfares are in addition to, or a reconstruction or widening of, any existing major thoroughfares serving the area at the time of the adoption of the boundaries of the area of benefit.

(5) The ordinance provides that payment of fees shall not be required unless the planned bridge facility is an original bridge serving the area or an addition to any existing bridge facility serving the area at the time of the adoption of the boundaries of the area of benefit. Fees imposed pursuant to this section shall not be expended to reimburse the cost of existing bridge facility construction, unless these costs are incurred in connection with the construction of an addition to an existing bridge for which fees may be required.

(6) The ordinance provides that if, within the time when protests may be filed under its provisions, there is a written protest, filed with the clerk of the legislative body, by the owners of more than one-half of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of that to be benefited, then the proposed proceedings shall be abandoned, and the legislative body shall not, for one year from the filing of that written protest, commence or carry on any proceedings for the same improvement or acquisition under the provisions of this section, unless the protests are overruled by an affirmative vote of four-fifths of the legislative body.

Nothing in this section shall preclude the processing and recordation of maps in accordance with other provisions of this division if proceedings are abandoned.

Any protests may be withdrawn in writing by the owner who filed the protest, at any time prior to the conclusion of a public hearing held pursuant to the ordinance.

If any majority protest is directed against only a portion of the improvement then all further proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year, but the legislative body shall not be barred from commencing new proceedings not including any part of the improvement or acquisition so protested against. Nothing in this section shall prohibit the legislative body, within the one-year period, from commencing and carrying on new proceedings for the construction of a portion of the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with that portion of the improvement or acquisition.

(c) Fees paid pursuant to an ordinance adopted pursuant to this section shall be deposited in a planned bridge facility or major thoroughfare fund. A fund shall be established for each planned bridge facility project or each planned major thoroughfare project. If the benefit area is one in which more than one bridge or major thoroughfare is required to be constructed, a fund may be so established covering all of the bridge or major thoroughfare projects in the benefit area. Moneys in the fund shall be expended solely for the construction or reimbursement for construction of the improvement serving the area to be benefited and from which the

fees comprising the fund were collected, or to reimburse the county or a city for the cost of constructing the improvement.

(d) An ordinance adopted pursuant to this section may provide for the acceptance of considerations in lieu of the payment of fees.

(e) The county or a city imposing fees pursuant to this section may advance money from its general fund or road fund to pay the cost of constructing the improvements and may reimburse the general fund or road fund from planned bridge facilities or major thoroughfares funds established to finance the construction of the improvements.

(f) The county or a city imposing fees pursuant to this section may incur an interest-bearing indebtedness for the construction of bridge facilities or major thoroughfares, and may enter into joint exercise of powers agreements with other local agencies imposing fees pursuant to this section for the purpose of, among others, jointly exercising the duly authorized original power established by this section, in addition to those powers authorized through a joint exercise of powers agreement. The sole security for repayment of the indebtedness shall be moneys in planned bridge facilities or major thoroughfares funds.

(g) The term "construction," as used in this section, includes design, acquisition of rights-of-way, and actual construction, including, but not limited to, all direct and indirect environmental, engineering, accounting, legal, administration of construction contracts, and other services necessary therefor. The term "construction" also includes reasonable general agency administrative expenses, not exceeding three hundred thousand dollars ($300,000) in any calendar year after January 1, 1986, as adjusted annually for any increase or decrease in the Consumer Price Index of the Bureau of Labor Statistics of the United States Department of Labor for all Urban Consumers, Los Angeles-Long Beach-Anaheim, California (1967=100), as published by the United States Department of Commerce, by each agency created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 for the purpose of constructing bridges and major thoroughfares. "General agency administrative expenses" means those office, personnel, and other customary and normal expenses associated with the direct management and administration of the agency, but not including costs of construction.

(h) Nothing in this section shall be construed to preclude the County of Orange or any city within that county from providing funds for the construction of bridge facilities or major thoroughfares to defray costs not allocated to the area of benefit.

(i) Any city within the County of Orange may require the payment of fees in accordance with this section as to any property in an area of benefit within the city's boundaries, for facilities shown on its general plan or the county's general plan, whether the facilities are situated within or outside the boundaries of the city, and the county may expend fees for facilities or portions thereof located

within cities in the county.

(j) The validity of any fee required pursuant to this section shall not be contested in any action or proceeding unless commenced within 60 days after recordation of the resolution described in paragraph (3) of subdivision (b). The provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure shall be applicable to any such action or proceeding. This subdivision shall also apply to modifications of fee programs.

(k) If the County of Orange and any city within that county have entered into a joint powers agreement for the purpose of constructing the bridges and major thoroughfares referred to in Sections 50029 and 66484.3, and if a proposed change of organization or reorganization includes any territory of an area of benefit established pursuant to Sections 50029 and 66484.3, within a successor local agency, the local agency shall not take any action that would impair, delay, frustrate, obstruct, or otherwise impede the construction of the bridges and major thoroughfares referred to in this section.

SEC. 6. Section 66484.3 of the Government Code is amended to read:

66484.3. (a) The Board of Supervisors of the County of Orange and the city council or councils of any city or cities in that county may, by ordinance, require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares.

(b) The local ordinance may require payment of fees pursuant to this section if:

(1) The ordinance refers to the circulation element of the general plan and, in the case of bridges, to the transportation provisions or flood control provisions of the general plan which identify railways, freeways, streams, or canyons for which bridge crossings are required on the general plan or local roads, and in the case of major thoroughfares, to the provisions of the circulation element which identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to or which is part of the state highway system, and the circulation element, transportation provisions, or flood control provisions have been adopted by the local agency 30 days prior to the filing of a map or application for a building permit. Bridges which are part of a major thoroughfare need not be separately identified in the transportation or flood control provisions of the general plan.

(2) The ordinance provides that there will be a public hearing held by the governing body for each area benefited. Notice shall be given pursuant to Section 65905. In addition to the requirements of Section 65905, the notice shall contain preliminary information related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment. The area of benefit may include

land or improvements in addition to the land or improvements which are the subject of any map or building permit application considered at the proceedings.

(3) The ordinance provides that at the public hearing, the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment are established. The method of fee apportionment, in the case of major thoroughfares, shall not provide for higher fees on land which abuts the proposed improvement except where the abutting property is provided direct usable access to the major thoroughfare. A description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing shall be incorporated in a resolution of the governing body, a certified copy of which shall be recorded by the governing body conducting the hearing with the recorder of the County of Orange. The resolution may subsequently be modified in any respect by the governing body. Modifications shall be adopted in the same manner as the original resolution. Any modification shall be subject to the protest procedures prescribed by paragraph (6). The resolution may provide for automatic periodic adjustment of fees based upon the California Construction Cost Index prepared and published by the Department of Transportation, without further action of the governing body, including, but not limited to, public notice or hearing. The apportioned fees shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of a final map or as a condition of issuing a building permit for any of the property or portions of the property. Where the area of benefit includes lands not subject to the payment of fees pursuant to this section, the governing body shall make provision for payment of the share of improvement costs apportioned to those lands from other sources, but those sources need not be identified at the time of the adoption of the resolution.

(4) The ordinance provides that payment of fees shall not be required unless the major thoroughfares are in addition to, or a reconstruction or widening of, any existing major thoroughfares serving the area at the time of the adoption of the boundaries of the area of benefit.

(5) The ordinance provides that payment of fees shall not be required unless the planned bridge facility is an original bridge serving the area or an addition to any existing bridge facility serving the area at the time of the adoption of the boundaries of the area of benefit. Fees imposed pursuant to this section shall not be expended to reimburse the cost of existing bridge facility construction, unless these costs are incurred in connection with the construction of an addition to an existing bridge for which fees may be required.

(6) The ordinance provides that if, within the time when protests may be filed under its provisions, there is a written protest, filed with the clerk of the legislative body, by the owners of more than one-half

of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of that to be benefited, then the proposed proceedings shall be abandoned, and the legislative body shall not, for one year from the filing of that written protest, commence or carry on any proceedings for the same improvement or acquisition under this section, unless the protests are overruled by an affirmative vote of four-fifths of the legislative body.

Nothing in this section shall preclude the processing and recordation of maps in accordance with other provisions of this division if proceedings are abandoned.

Any protests may be withdrawn in writing by the owner who filed the protest, at any time prior to the conclusion of a public hearing held pursuant to the ordinance.

If any majority protest is directed against only a portion of the improvement then all further proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year, but the legislative body shall not be barred from commencing new proceedings not including any part of the improvement or acquisition so protested against. Nothing in this section shall prohibit the legislative body, within the one-year period, from commencing and carrying on new proceedings for the construction of a portion of the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with that portion of the improvement or acquisition.

(c) Fees paid pursuant to an ordinance adopted pursuant to this section shall be deposited in a planned bridge facility or major thoroughfare fund. A fund shall be established for each planned bridge facility project or each planned major thoroughfare project. If the benefit area is one in which more than one bridge or major thoroughfare is required to be constructed, a fund may be so established covering all of the bridge or major thoroughfare projects in the benefit area. Moneys in the fund shall be expended solely for the construction or reimbursement for construction of the improvement serving the area to be benefited and from which the fees comprising the fund were collected, or to reimburse the county or a city for the cost of constructing the improvement.

(d) An ordinance adopted pursuant to this section may provide for the acceptance of considerations in lieu of the payment of fees.

(e) The county or a city imposing fees pursuant to this section may advance money from its general fund or road fund to pay the cost of constructing the improvements and may reimburse the general fund or road fund from planned bridge facilities or major thoroughfares funds established to finance the construction of the improvements.

(f) The county or a city imposing fees pursuant to this section may incur an interest-bearing indebtedness for the construction of bridge

facilities or major thoroughfares, and may enter into joint exercise of powers agreements with other local agencies imposing fees pursuant to this section, for the purpose of, among others, jointly exercising as a duly authorized original power established by this section, in addition to those through a joint exercise of powers agreement, those powers authorized in Chapter 5 (commencing with Section 31100) of Division 17 of the Streets and Highways Code for the purpose of constructing bridge facilities and major thoroughfares in lieu of a tunnel and appurtenant facilities, and, notwithstanding Section 31200 of the Streets and Highways Code, may acquire by dedication, gift, purchase, or eminent domain, any franchise, rights, privileges, easements, or other interest in property, either real or personal, necessary therefor on segments of the state highway system, including, but not limited to, those segments of the state highway system eligible for federal participation pursuant to Title 23 of the United States Code.

An entity constructing bridge facilities and major thoroughfares pursuant to this section shall design and construct the bridge facilities and major thoroughfares to the standards and specifications of the Department of Transportation then in effect, and may, at any time, transfer all or a portion of the bridge facilities and major thoroughfares to the state subject to the terms and conditions as shall be satisfactory to the Director of the Department of Transportation. Any of these bridge facilities and major thoroughfares shall be designated as a portion of the state highway system prior to its transfer. The sole security for repayment of the indebtedness shall be moneys in planned bridge facilities or major thoroughfares funds. The participants in a joint exercise of powers agreement may also exercise as a duly authorized original power established by this section the power to establish and collect toll charges only for paying for the costs of construction of the major thoroughfare for which the toll is charged and for the costs of collecting the tolls. Major thoroughfares from which tolls are charged shall utilize the toll collection equipment most capable of moving vehicles expeditiously and efficiently, best suited for that purpose as determined by the participants in the joint exercise of powers agreement. However, in no event shall the powers authorized in Chapter 5 (commencing with Section 31100) of Division 17 of the Streets and Highways Code be exercised unless a resolution is first adopted by the legislative body of the agency finding that adequate funding for the portion of the cost of constructing those bridge facilities and major thoroughfares not funded by the development fees collected by the agency is not available from any federal, state, or other source. Any major thoroughfare constructed and operated as a toll road pursuant to this section shall only be constructed parallel to other public thoroughfares and highways.

(g) The term "construction," as used in this section, includes design, acquisition of right-of-way, administration of construction contracts, and actual construction, and also includes reasonable

administrative expenses, not exceeding six hundred thousand dollars ($600,000) in any calendar year, incurred in association with those activities.

(h) Nothing in this section shall be construed to preclude the County of Orange or any city within that county from providing funds for the construction of bridge facilities or major thoroughfares to defray costs not allocated to the area of benefit.

(i) Any city within the County of Orange may require the payment of fees in accordance with this section as to any property in an area of benefit within the city's boundaries, for facilities shown on its general plan or the county's general plan, whether the facilities are situated within or outside the boundaries of the city, and the county may expend fees for facilities or portions thereof located within cities in the county.

(j) The validity of any fee required pursuant to this section shall not be contested in any action or proceeding unless commenced within 60 days after recordation of the resolution described in paragraph (3) of subdivision (b). The provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure shall be applicable to any such action or proceeding. This subdivision shall also apply to modifications of fee programs.

(k) If the County of Orange and any city within that county have entered into a joint powers agreement for the purpose of constructing the bridges and major thoroughfares referred to in Sections 50029 and 66484.3, and if a proposed change of organization or reorganization includes any territory of an area of benefit established pursuant to Sections 50029 and 66484.3, within a successor local agency, the local agency shall not take any action that would impair, delay, frustrate, obstruct, or otherwise impede the construction of the bridges and major thoroughfares referred to in this section.

SEC. 7. *Section 66484.3 of the Government Code, as amended by Section 1 of Senate Bill 1074, is amended to read:*

66484.3. (a) Notwithstanding Section 53077.5, the Board of Supervisors of the County of Orange and the city council or councils of any city or cities in that county may, by ordinance, require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares.

(b) The local ordinance may require payment of fees pursuant to this section if:

(1) The ordinance refers to the circulation element of the general plan and, in the case of bridges, to the transportation provisions or flood control provisions of the general plan which identify railways, freeways, streams, or canyons for which bridge crossings are required on the general plan or local roads, and in the case of major thoroughfares, to the provisions of the circulation element which

identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to or which is part of the state highway system, and the circulation element, transportation provisions, or flood control provisions have been adopted by the local agency 30 days prior to the filing of a map or application for a building permit. Bridges which are part of a major thoroughfare need not be separately identified in the transportation or flood control provisions of the general plan.

(2) The ordinance provides that there will be a public hearing held by the governing body for each area benefited. Notice shall be given pursuant to Section 65905. In addition to the requirements of Section 65905, the notice shall contain preliminary information related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment. The area of benefit may include land or improvements in addition to the land or improvements which are the subject of any map or building permit application considered at the proceedings.

(3) The ordinance provides that at the public hearing, the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment are established. The method of fee apportionment, in the case of major thoroughfares, shall not provide for higher fees on land which abuts the proposed improvement except where the abutting property is provided direct usable access to the major thoroughfare. A description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing shall be incorporated in a resolution of the governing body, a certified copy of which shall be recorded by the governing body conducting the hearing with the recorder of the county in which the area of benefit is located. The resolution may subsequently be modified in any respect by the governing body. Modifications shall be adopted in the same manner as the original resolution. Any modification shall be subject to the protest procedures prescribed by paragraph (6). The resolution may provide for automatic periodic adjustment of fees based upon the California Construction Cost Index prepared and published by the Department of Transportation, without further action of the governing body, including, but not limited to, public notice or hearing. The apportioned fees shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of a final map or as a condition of issuing a building permit for any of the property or portions of the property. Where the area of benefit includes lands not subject to the payment of fees pursuant to this section, the governing body shall make provision for payment of the share of improvement costs apportioned to those lands from other sources, but those sources need not be identified at the time of the adoption of the resolution.

(4) The ordinance provides that payment of fees shall not be required unless the major thoroughfares are in addition to, or a

reconstruction or widening of, any existing major thoroughfares serving the area at the time of the adoption of the boundaries of the area of benefit.

(5) The ordinance provides that payment of fees shall not be required unless the planned bridge facility is an original bridge serving the area or an addition to any existing bridge facility serving the area at the time of the adoption of the boundaries of the area of benefit. Fees imposed pursuant to this section shall not be expended to reimburse the cost of existing bridge facility construction, unless these costs are incurred in connection with the construction of an addition to an existing bridge for which fees may be required.

(6) The ordinance provides that if, within the time when protests may be filed under its provisions, there is a written protest, filed with the clerk of the legislative body, by the owners of more than one-half of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of that to be benefited, then the proposed proceedings shall be abandoned, and the legislative body shall not, for one year from the filing of that written protest, commence or carry on any proceedings for the same improvement or acquisition under the provisions of this section, unless the protests are overruled by an affirmative vote of four-fifths of the legislative body.

Nothing in this section shall preclude the processing and recordation of maps in accordance with other provisions of this division if proceedings are abandoned.

Any protests may be withdrawn in writing by the owner who filed the protest, at any time prior to the conclusion of a public hearing held pursuant to the ordinance.

If any majority protest is directed against only a portion of the improvement then all further proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year, but the legislative body shall not be barred from commencing new proceedings not including any part of the improvement or acquisition so protested against. Nothing in this section shall prohibit the legislative body, within the one-year period, from commencing and carrying on new proceedings for the construction of a portion of the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with that portion of the improvement or acquisition.

(c) Fees paid pursuant to an ordinance adopted pursuant to this section shall be deposited in a planned bridge facility or major thoroughfare fund. A fund shall be established for each planned bridge facility project or each planned major thoroughfare project. If the benefit area is one in which more than one bridge or major thoroughfare is required to be constructed, a fund may be so established covering all of the bridge or major thoroughfare projects

in the benefit area. Moneys in the fund shall be expended solely for the construction or reimbursement for construction of the improvement serving the area to be benefited and from which the fees comprising the fund were collected, or to reimburse the county or a city for the cost of constructing the improvement.

(d) An ordinance adopted pursuant to this section may provide for the acceptance of considerations in lieu of the payment of fees.

(e) The county or a city imposing fees pursuant to this section may advance money from its general fund or road fund to pay the cost of constructing the improvements and may reimburse the general fund or road fund from planned bridge facilities or major thoroughfares funds established to finance the construction of the improvements.

(f) The county or a city imposing fees pursuant to this section may incur an interest-bearing indebtedness for the construction of bridge facilities or major thoroughfares, and may enter into joint exercise of powers agreements with other local agencies imposing fees pursuant to this section for the purpose of, among others, jointly exercising the duly authorized original power established by this section, in addition to those powers authorized through a joint exercise of powers agreement, those powers authorized in Chapter 5 (commencing with Section 31100) of Division 17 of the Streets and Highways Code for the purpose of constructing bridge facilities and major thoroughfares in lieu of a tunnel and appurtenant facilities, and, notwithstanding Section 31200 of the Streets and Highways Code, may acquire by dedication, gift, purchase, or eminent domain, any franchise, rights, privileges, easements, or other interest in property, either real or personal, necessary therefor on segments of the state highway system, including, but not limited to, those segments of the state highway system eligible for federal participation pursuant to Title 23 of the United States Code.

An entity constructing bridge facilities and major thoroughfares pursuant to this section shall design and construct the bridge facilities and major thoroughfares to the standards and specifications of the Department of Transportation then in effect, and may, at any time, transfer all or a portion of the bridge facilities and major thoroughfares to the state subject to the terms and conditions as shall be satisfactory to the Director of the Department of Transportation. Any of these bridge facilities and major thoroughfares shall be designated as a portion of the state highway system prior to its transfer. The sole security for repayment of the indebtedness shall be moneys in planned bridge facilities or major thoroughfares funds. The participants in a joint exercise of powers agreement may also exercise as a duly authorized original power established by this section the power to establish and collect toll charges only for paying for the costs of construction of the major thoroughfare for which the toll is charged and for the costs of collecting the tolls. Major thoroughfares from which tolls are charged shall utilize the toll collection equipment most capable of moving vehicles expeditiously

and efficiently, best suited for that purpose as determined by the participants in the joint exercise of powers agreement. However, in no event shall the powers authorized in Chapter 5 (commencing with Section 31100) of Division 17 of the Streets and Highways Code be exercised unless a resolution is first adopted by the legislative body of the agency finding that adequate funding for the portion of the cost of constructing those bridge facilities and major thoroughfares not funded by the development fees collected by the agency is not available from any federal, state, or other source. Any major thoroughfare constructed and operated as a toll road pursuant to this section shall only be constructed parallel to other public thoroughfares and highways.

(g) The term "construction," as used in this section, includes design, acquisition of rights-of-way, and actual construction, including, but not limited to, all direct and indirect environmental, engineering, accounting, legal, administration of construction contracts, and other services necessary therefor. The term "construction" also includes reasonable general agency administrative expenses, not exceeding three hundred thousand dollars ($300,000) in any calendar year after January 1, 1986, as adjusted annually for any increase or decrease in the Consumer Price Index of the Bureau of Labor Statistics of the United States Department of Labor for all Urban Consumers, Los Angeles-Long Beach-Anaheim, California (1967=100), as published by the United States Department of Commerce, by each agency created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 for the purpose of constructing bridges and major thoroughfares. "General agency administrative expenses" means those office, personnel, and other customary and normal expenses associated with the direct management and administration of the agency, but not including costs of construction.

(h) Nothing in this section shall be construed to preclude the County of Orange or any city within that county from providing funds for the construction of bridge facilities or major thoroughfares to defray costs not allocated to the area of benefit.

(i) Any city within the County of Orange may require the payment of fees in accordance with this section as to any property in an area of benefit within the city's boundaries, for facilities shown on its general plan or the county's general plan, whether the facilities are situated within or outside the boundaries of the city, and the county may expend fees for facilities or portions thereof located within cities in the county.

(j) The validity of any fee required pursuant to this section shall not be contested in any action or proceeding unless commenced within 60 days after recordation of the resolution described in paragraph (3) of subdivision (b). The provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure shall be applicable to any such action or proceeding. This subdivision shall also apply to modifications of fee programs.

(k) If the County of Orange and any city within that county have entered into a joint powers agreement for the purpose of constructing the bridges and major thoroughfares referred to in Sections 50029 and 66484.3, and if a proposed change of organization or reorganization includes any territory of an area of benefit established pursuant to Sections 50029 and 66484.3, within a successor local agency, the local agency shall not take any action that would impair, delay, frustrate, obstruct, or otherwise impede the construction of the bridges and major thoroughfares referred to in this section.

SEC. 8. The Legislature finds and declares that the provisions of Section 2 of this act are declaratory of existing law.

SEC. 9. (a) Section 5 of this bill incorporates amendments to Section 66484.3 of the Government Code proposed by both this bill and SB 1074. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1988, (2) each bill amends Section 66484.3 of the Government Code, (3) SB 1413 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1074 in which case Section 66484.3 of the Government Code, as amended by SB 1074 shall remain operative only until the operative date of this bill at which time Section 5 of this bill shall become operative, and Sections 4, 6, and 7 of this bill shall not become operative.

(b) Section 6 of this bill incorporates amendments to Section 66484.3 of the Government Code proposed by both this bill and SB 1413. It shall only become operative if (1) both bills are enacted and become effective January 1, 1988, (2) each bill amends Section 66484.3 of the Government Code, and (3) SB 1074 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1413, in which case Sections 4, 5, and 7 of this bill shall not become operative.

(c) Section 7 of this bill incorporates amendments to Section 66484.3 of the Government Code proposed by this bill, SB 1074, and SB 1413. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1988, (2) all three bills amend Section 66484.3 of the Government Code, and (3) this bill is enacted after SB 1074 and SB 1413, in which case Section 66484.3 of the Government Code, as amended by SB 1074 shall remain operative only until the operative date of this bill at which time Section 7 of this bill shall become operative, and Sections 4, 5, and 6 of this bill shall not become operative.

CHAPTER 1350

An act to add Section 301.6 to the Health and Safety Code relating to Medi-Cal, and making an appropriation therefor.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

I am deletng the $1,050,000 appropriation contained in Section 3 of Senate Bill No 156.

This bill requires that the Maternal and Child Health Branch of the Department of Health Services conduct a three year, five county pilot project to examine the effects of daily ambulatory uterine monitoring on Medi-Cal beneficiaries. This bill would also appropriate $1,050,000 from the General Fund.

The demands placed on budget resources require all of us to set priorities The budget enacted in July, 1987 appropriated nearly $41 billion in state funds. This amount is more than adequate to provide the necessary essential services provided for by State Government. It is not necessary to put additional pressure on taxpayer funds for programs that fall beyond the priorities currently provided.

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties.

I would, however, consider funding the provisions of this bill during the budget process for Fiscal Year 1988–89. It is appropriate to review the relative merits of this program in comparison to all other funding projects. The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit

With this deletion, I approve Senate Bill No. 156.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Preterm birth is one of the leading causes of neonatal mortality in California.

(2) Eighty-five percent of babies who die at, or close to, birth, die as a result of prematurity.

(3) Fifty percent of neurological handicaps in infants is due to prematurity.

(4) The United States has a higher preterm birth rate than at least 14 other industrialized nations.

(5) Each year, more than 250,000 babies are born prematurely in the United States, with California experiencing in excess of 10 percent of those births.

(6) One out of every seven women is at risk of a preterm delivery.

(7) Because the causes of preterm birth are not fully understood, the best methods of prevention are early diagnosis and treatment of preterm labor.

(b) The Legislature further finds that uterine monitoring, on an inpatient basis has been a covered benefit for high-risk mothers in the Medi-Cal program. The purpose of these services is to detect early uterine contractions, one of the first possible signs of labor. Inasmuch as it has been the intent of the Legislature to provide the broadest scope of services possible, in the most cost-effective setting

as possible, the Legislature finds that patients at high risk of preterm delivery can receive uterine monitoring services at home as an alternative to the higher cost of frequent or lengthy hospitalization.

(c) It is the intent of the Legislature that when physicians are provided with reliable clinical information on early indicators of preterm labor, the opportunities for effectively treating preterm labor and thereby preventing preterm birth are greatly improved.

SEC. 2. Section 301.6 is added to the Health and Safety Code, to read:

301.6. (a) The Maternal and Child Health Branch of the State Department of Health Services shall conduct a pilot project to assess the effectiveness of daily ambulatory uterine monitoring devices and services in reducing preterm births in Medi-Cal eligible women.

(b) The State Department of Health Services shall implement the pilot program to assess the incidence of preterm births in 1,000 women at high risk of preterm birth, 500 of whom shall be provided daily ambulatory uterine monitoring services between the 23rd and 36th weeks of gestation and 500 of whom shall be provided routine prenatal care augmented by training in palpatation. Women participating in the pilot program shall be Medi-Cal eligible women. To the maximum extent possible these services shall be prescribed by providers participating in other programs administered by the Maternal and Child Health Branch of the State Department of Health Services or the comprehensive perinatal program.

(c) Women shall be deemed to be at high risk if they have multiple gestation or any two of the following risk factors for preterm labor; uterine malformation, a history of preterm labor or births, cervical incompetence, cervical dilation or effacement, and those patients who have been treated during the current pregnancy for preterm labor.

(d) The department shall select five counties to participate in the project, at least one of which shall be a rural county, and shall reimburse providers of ambulatory uterine monitoring services a fee based on reasonable costs.

(e) (1) The department shall also contract for an evaluation of the pilot project to ascertain whether use of the ambulatory uterine monitoring services significantly reduces the incidence of preterm births. The evaluation shall compare the experimental and control groups and identify the following for each group:

(A) The number of preterm births.

(B) The number of hospital days used by the mother prior to delivery.

(C) The number of hospital days used by the mother and child after delivery, including neonatal intensive care.

(D) The number of children born with developmental disabilities or conditions which may lead to developmental disabilities.

(E) The costs of providing prenatal services.

(2) The evaluation shall also project the costs associated with the health care provided to the mother and child during the course of

the pilot project and, if feasible, shall project the longer term health care costs of children born prematurely, including costs of services provided to the developmentally disabled.

(3) The department may enter into the contract on a sole source basis.

(f) (1) The pilot project established pursuant to this section shall be considered successful if it shows that the experimental group, when compared to the control group, had all of the following:

(A) A 20 percent reduction in the number of premature births.

(B) A 20 percent reduction in the number of antepartum hospitalization days.

(C) A 20 percent reduction in the number of neonatal intensive care unit days for premature births.

(D) A 20 percent reduction in total patient costs.

(2) The State Department of Health Services shall submit the evaluation to the Legislature by September 1, 1990.

(g) (1) The State Department of Health Services shall immediately seek any federal waivers necessary to ensure full federal financial participation in the pilot program established pursuant to this section.

(2) The State Department of Health Services shall not implement the pilot program under this section until necessary federal waivers are received.

SEC. 3. The sum of one million fifty thousand dollars ($1,050,000) is hereby appropriated from the General Fund to the State Department of Health Services to implement the provisions of this act. Of this amount, the department shall allocate not more than one hundred fifty thousand dollars ($150,000) for the evaluation required by Section 2 of this act. The remainder shall be allocated by the State Department of Health Services to pay for Medi-Cal costs incurred in operating the pilot project established pursuant to this act.

CHAPTER 1351

An act to add Section 16515 to the Welfare and Institutions Code, relating to public social services, and making an appropriation therefor.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

I am deleting the $120,000 appropriation contained in Section 2 of Senate Bill No 500.

This bill would require the Department of Social Services to establish a respite care project for fiscal Year 1988–89, in Orange and San Diego Counties, to provide respite care services for handicapped children currently receiving services through the Aid to Families with Dependent Children-Foster Care program.

The demands placed on budget resources require all of us to set priorities. The budget enacted in July, 1987 appropriated nearly $41 billion in state funds. This amount is more than adequate to provided the necessary essential services provide for by State Government. It is not necessary to put additional pressure on taxpayer

funds for programs that fall beyond the priorities currently provided.

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties

I would, however, consider funding the provisions of this bill during the budget process for Fiscal Year 1988–89 It is appropriate to review the relative merits of this program in comparison to all other funding projects The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit

With this deletion, I approve Senate Bill No 500.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 16515 is added to the Welfare and Institutions Code, to read:

16515. The State Department of Social Services shall select two county children's service agencies to operate a model project to provide respite care services for children with special needs in the area of physical and health handicaps in foster care. The respite care pilot project shall be operational for fiscal year 1988–89.

(a) The director shall designate the County of Orange and the County of San Diego as the pilot counties to provide respite care for handicapped children in family homes, small family homes, as defined in paragraph (6) of subdivision (a) of Section 1502 of the Health and Safety Code.

(b) The services to be provided shall include respite care defined as child care occurring up to 24 hours in one day. This respite care shall not be provided for any longer than 48 hours for any child in any one month.

(c) The State Department of Social Services in conjunction with the Orange County Social Services Agency and the San Diego County Department of Social Services, shall report to the Legislature on the effectiveness of this respite care pilot project by December 1, 1989. The evaluation report shall include, but not be limited to, the following data, by county:

(1) The number of handicapped children in family homes and small family homes before, during, and at the conclusion of the respite care pilot project.

(2) The number of foster children for whom respite care was provided by the pilot project.

(3) The number of hours of respite care provided by the pilot project.

(4) The cost of providing respite care, on an hourly and aggregated basis.

(d) This project shall be deemed to be successful if the Counties of Orange and San Diego each experience a 25 percent increase in the total number of family homes and small family homes.

SEC. 2. The sum of one hundred twenty thousand dollars ($120,000) is hereby appropriated from the General Fund to the State Department of Social Services for the 1988–89 fiscal year for the purposes of this act.

CHAPTER 1352

An act to add and repeal Section 6368.2 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 6368.2 is added to the Revenue and Taxation Code, to read:

6368.2. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, diesel fuel used in operating watercraft in commercial deep sea fishing operations or commercial passenger fishing boat operations by persons who are regularly engaged in the business of commercial deep sea fishing or commercial passenger fishing boat operations outside the territorial waters of this state.

(b) For purposes of this section, it shall be rebuttably presumed that a person is not regularly engaged in the business of commercial deep sea fishing or the operation of a commercial passenger fishing boat if the person has gross receipts from these operations of less than five thousand dollars ($5,000) a year.

(c) "Commercial passenger fishing boat operations" means the business of permitting, for profit, any person to fish from the operator's boat or vessel.

(d) This section shall be operative for the 12-month period beginning on the first day of the first calendar quarter commencing more than 90 days after the effective date of this section. As of the first day of the month immediately following this 12-month period, this section is repealed unless a later enacted statute, which is enacted before that date, deletes or extends the date.

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.

CHAPTER 1353

An act to amend Sections 11450, 11452, and 16501 of, to add Section 15200.15 to, and to repeal Section 11454 of, of the Welfare and Institutions Code, relating to public social services, and making an appropriation therefor.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987]

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

SECTION 1. Section 11450 of the Welfare and Institutions Code is amended to read:

11450. (a) For each needy family which shall include all eligible brothers and sisters of each eligible applicant or recipient child and the parents of the children, but shall not include unborn children, or recipients of aid under Chapter 3 (commencing with Section 12000), qualified for aid under this chapter, there shall be paid, notwithstanding minimum basic standards of adequate care established by the department under Section 11452, an amount of aid each month which when added to the family's income, exclusive of any amounts considered exempt as income or (f) paid pursuant to subdivision (e) or Section 11453.1, is equal to the sums specified in the following table, as adjusted for cost-of-living increases pursuant to Section 11453:

Number of eligible needy persons in the same home	Maximum aid
1	$ 258
2	424
3	526
4	625
5	713
6	802
7	880
8	959
9	1,036
10 or more	1,114

If, when and during such times as the United States government increases or decreases its contributions in assistance of needy children in this state above or below the amount paid on July 1, 1972, the amounts specified in the above table shall be increased or decreased by an amount equal to such increase or decrease by the United States government, provided that no such increase or decrease shall be subject to subsequent adjustment pursuant to Section 11453.

(b) When the family does not include a needy child qualified for aid under this chapter, aid shall be paid to a pregnant mother in the amount which would otherwise be paid to one person as specified in subdivision (a) from the date of verification of pregnancy if the mother, and child if born, would have qualified for aid under this chapter.

(c) The amount of seventy dollars ($70) per month shall be paid to pregnant mothers qualified for aid under subdivision (a) or (b) to meet special needs resulting from pregnancy if the mother, and child, if born, would have qualified for aid under this chapter. County welfare departments shall refer all recipients of aid under this subdivision to a local provider of the Women, Infants and Children program. If such payment to pregnant mothers qualified for aid under subdivision (a) is considered income under federal law in the first five months of pregnancy, payments under this subdivision shall not apply to persons eligible under subdivision (a), except for the month in which birth is anticipated and for the three-month period immediately prior to the month in which delivery is anticipated, if the mother, and the child if born, would have qualified for aid under this chapter.

(d) For children receiving AFDC-FC under the provisions of this chapter, there shall be paid, exclusive of any amount considered exempt as income, an amount of aid each month which when added to the child's income is equal to the rate specified in Section 11461, 11462, 11462.1, or 11463. In addition, the child shall be eligible for special needs, as specified in departmental regulations.

(e) In addition to the amounts payable under subdivision (a) and Section 11453.1, a family shall be entitled to receive an allowance for recurring special needs not common to a majority of recipients. These recurring special needs shall include, but not be limited to, special diets upon the recommendation of a physician for circumstances other than pregnancy, and unusual costs of transportation, laundry, housekeeping service, telephone, and utilities. The recurring special needs allowance for each family per month shall not exceed that amount resulting from multiplying the sum of ten dollars ($10) by the number of recipients in the family who are eligible for assistance.

(f) After a family has used all available liquid resources, both exempt and nonexempt, in excess of one hundred dollars ($100), the family shall also be entitled to receive an allowance for nonrecurring special needs.

(1) An allowance for nonrecurring special needs shall be granted for replacement of clothing and household equipment and for emergency housing needs other than those needs addressed by paragraph (2). These needs shall be caused by sudden and unusual circumstances beyond the control of the needy family. The department shall establish the allowance for each of the nonrecurring special need items. The sum of all nonrecurring special needs provided by this subdivision shall not exceed six hundred

dollars ($600) per event.

(2) Homeless assistance is available to a homeless family seeking shelter when the family is eligible for aid under this chapter. Homeless assistance for temporary shelter is also available to homeless families which are apparently eligible for aid under this chapter. Apparent eligibility exists when evidence presented by the applicant or which is otherwise available to the county welfare department and the information provided on the application documents indicate that there would be eligibility for aid under this chapter if the evidence and information were verified. However, an alien applicant who does not provide verification of his or her eligible alien status, or a woman with no eligible children who does not provide medical verification of pregnancy is not apparently eligible for purposes of this section.

A family is considered homeless, for the purpose of this section, when the family lacks a fixed and regular nighttime residence; or the family has a primary nighttime residence that is a supervised publicly or privately operated shelter designed to provide temporary living accommodations; or the family is residing in a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(A) A nonrecurring special need of thirty dollars ($30) a day shall be available for up to three weeks to families for the costs of temporary shelter. County welfare departments may increase the daily amount available for temporary shelter to large families as necessary to secure the additional bed space needed by the family. This special need shall be granted or denied immediately upon the family's application for homeless assistance. The three-week limit shall be extended one week based upon good cause or other circumstances defined by the department. Good cause shall include, but is not limited to, situations in which the county welfare department has determined that the family, to the extent it is capable, has made a good faith but unsuccessful effort to secure permanent housing within the three week limit.

(B) A nonrecurring special need for permanent housing assistance is available to pay for last month's rent and security deposits when these payments are reasonable conditions of securing a residence.

The last month's rent portion of the payment (1) shall not exceed 80 percent of the family's maximum aid payment without special needs for a family of that size and (2) shall only be made to families that have found permanent housing costing no more than 80 percent of the family's maximum aid payment without special needs for a family of that size, in accordance with the maximum aid schedule specified in subdivision (a).

However, if the county welfare department determines that a family intends to reside with individuals who will be sharing housing costs, the county welfare department shall, in appropriate circumstances, set aside the condition specified in clause (2) of the

preceding paragraph.

(C) The nonrecurring special need for permanent housing assistance is also available to cover the standard costs of deposits for utilities which are necessary for the health and safety of the family.

(D) A payment for or denial of permanent housing assistance shall be issued no later than one working day from the time that a family presents evidence of the availability of permanent housing. If an applicant family provides evidence of the availability of permanent housing before the county welfare department has established eligibility for aid under this chapter the county welfare department shall complete the eligibility determination so that the denial of or payment for permanent housing assistance is issued within one working day from the submission of evidence of the availability of permanent housing, unless the family has failed to provide all of the verification necessary to establish eligibility for aid under this chapter.

(E) Eligibility for the temporary shelter assistance and the permanent housing assistance pursuant to paragraph (2) is limited to once every 12 months.

(F) The county welfare departments, and all other entities participating in the costs of the AFDC program, have the right in their share to any refunds resulting from payment of the permanent housing. However, if an emergency requires the family to move within the 12-month period specified in subparagraph (E), the family shall be allowed to use any refunds received from its deposits to meet the costs of moving to another residence.

(G) Payments to providers for temporary shelter and permanent housing and utilities shall be made on behalf of families requesting these payments.

(H) The daily amount for the temporary shelter special need for homeless assistance may be increased if authorized by the current year's Budget Act by specifying a different daily allowance and appropriating the funds therefor.

(g) The department shall establish rules and regulations assuring the uniform application statewide of the provisions of this subdivision.

(h) The department shall notify all applicants and recipients of aid through the standardized application form that these benefits are available and shall provide an opportunity for recipients to apply for the funds quickly and efficiently.

(i) Except for the purposes of Section 15200, the amounts payable to recipients pursuant to Section 11453.1 shall not constitute part of the payment schedule set forth in subdivision (a) of this section.

The amounts payable to recipients pursuant to Section 11453.1 shall not constitute income to recipients of aid under this section.

SEC. 2. Section 11452 of the Welfare and Institutions Code is amended to read:

11452. (a) Minimum basic standards of adequate care shall be distributed to the counties and shall be binding upon them. The

standards are determined on the basis of the schedule set forth in this section, as adjusted for cost-of-living increases or decreases pursuant to Section 11453, which schedule is designed to insure:

(1) Safe, healthful housing.

(2) Minimum clothing for health and decency.

(3) Low-cost adequate food budget meeting recommended dietary allowances of the National Research Council.

(4) Utilities.

(5) Other items including household operation, education and incidentals, recreation, personal needs, and insurance.

(6) Allowance for essential medical, dental, or other remedial care to the extent not otherwise provided at public expense.

The schedule of minimum basic standards of adequate care is as follows:

Number of needy persons in the same family	Minimum basic standards of adequate care
1	$ 258
2	424
3	526
4	625
5	713
6	802
7	880
8	959
9	1,040
10	1,130

plus nine dollars ($9) for each additional needy person.

(b) The minimum basic standard of adequate care shall also include the amount or amounts resulting from an allowance for recurring special needs, as specified in subdivision (e) Section 11450, and the amount or amounts resulting from the granting of a nonrecurring special need, equal to the amounts specified in paragraphs (1) and (2) of subdivision (f) of Section 11450.

(c) The department shall establish rules and regulations assuring the uniform application statewide of the provisions of this section.

SEC. 3. Section 11454 of the Welfare and Institutions Code is repealed.

SEC. 3.5. Section 15200.15 is added to the Welfare and Institutions Code, to read:

15200.15. For purposes of Section 15200, any reference to paragraphs (1) and (2) of subdivision (e) of Section 11450 shall mean subdivisions (e) and (f) of Section 11450.

SEC. 4. Section 16501 of the Welfare and Institutions Code is amended to read:

16501. As used in this chapter, "child welfare services" means public social services which are directed toward the accomplishment

of the following purposes: (a) protecting and promoting the welfare of all children, including handicapped, homeless, dependent, or neglected children; (b) preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children; (c) preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible; (d) restoring to their families children who have been removed, by the provision of services to the child and the families; (e) identifying children to be placed in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate; and (f) assuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption. Child welfare services may include, but are not limited to: case management, counseling, emergency shelter care, emergency in-home caretakers, temporary in-home caretakers, out-of-home respite care, teaching and demonstrating homemakers, parenting training, and transportation.

As used in this chapter "emergency shelter care" means emergency shelter provided to children who have been removed pursuant to Section 300 from their parent or parents or their guardian or guardians.

The county shall provide child welfare services as needed pursuant to an approved service plan and in accordance with regulations promulgated by the department. Counties may contract for child welfare services, as defined in Sections 16504.1, 16506.1, 16507.1, and 16508.1. Each county shall use available private child welfare resources prior to developing new county-operated resources when the private child welfare resources are of at least equal quality and lesser or equal cost as compared with county-operated resources. Counties shall not contract for needs assessment, client eligibility determination, or any other activity as specified by regulations of the State Department of Social Services.

Nothing in this chapter shall be construed to affect duties which are delegated to probation officers pursuant to Sections 601 and 654 of the Welfare and Institutions Code.

Any county may utilize volunteer individuals to supplement professional child welfare services in the areas of transportation, respite care, and emergency foster care, provided all volunteers agree to be subject to the State Department of Social Services regulations.

SEC. 5. The Legislature finds and declares all of the following:

(a) The Legislature hereby recognizes and acknowledges that child welfare services authorized pursuant to Section 16500 et seq., of the Welfare and Institutions Code are intended to make it possible for children who are victims of child abuse, neglect, or exploitation to remain with their families whenever possible. Further, child

welfare services emergency shelter care is to be available only for the purpose of providing shelter for children following removal from their families when these measures are necessary to protect the child from abuse, neglect, or exploitation within the family environment.

(b) Subdivision (b) of Section 300 of the Welfare and Institutions Code underscores the inappropriateness of public intervention in the relationship between parents and their children solely on the basis of unavailability of emergency shelter for the family. The problems of homeless families are best resolved by expanding aid available pursuant to Section 11000 et seq., of the Welfare and Institutions Code so that these families will have access to resources necessary to acquire shelter.

(c) It is the intent of the Legislature to resolve the dispute in the case of Hansen v. McMahon (Superior Court of Los Angeles, No. CA 000974), and Hansen v. Department of Social Services (193 Cal App. 3d 283) and to clarify that the provision of emergency shelter care under Chapter 5 (commencing with Section 16500) of Part 4 of Division 9 of the Welfare and Institutions Code is for children only and not for their parents, guardians, caretakers, or others.

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. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the State Department of Social Services shall adopt emergency regulations to implement the system provided for in subdivision (f) of Section 11450 of the Welfare and Institutions Code. The emergency regulations shall remain in effect for no more than 120 days, unless the department complies with all the provisions of Chapter 3.5 (commencing with Section 11340) as required by subdivision (e) of Section 11346.1 of the Government Code.

SEC. 8. The nonrecurring special need for homeless assistance, provided in Section 1 of this act, shall be available to applicant and recipient families, only to the extent that there is federal financial participation available for this assistance.

If federal financial participation is available for applicant and recipient families under Section 1 of this act, then families who fail to meet federal eligibility rules solely due to the requirements of 42 U.S.C. 607 (b) (1) (B) or (c) (i), and as those sections may hereafter be amended, shall also be eligible for aid under Section 1 if the family is eligible for aid pursuant to subdivision (b) of Section 11201, Section 18315, and subdivision (b) of Section 11450 of the Welfare and Institutions Code.

Implementation of Section 1 of this act is contingent upon the availability of federal financial participation for homeless assistance

payments to federally eligible AFDC applicants and recipients. If the State Director of Social Services determines that the federal government has failed to approve the payments, Sections 3.5, 4, and 5 of this act shall become inoperative.

SEC. 9. Section 1 to 7, inclusive, of this act shall become operative on February 1, 1988.

CHAPTER 1354

An act to add Sections 51229 and 51229.5 to the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 51229 is added to the Education Code, to read:

51229. (a) The Legislature hereby finds and declares all of the following:

(1) That abstinence is the only completely effective method of preventing pregnancy, acquired immune deficiency syndrome (AIDS), and other sexually transmitted diseases.

(2) That existing law does not provide for either specific instruction or instructional materials in the curriculum to address the issue of abstinence from sexual intercourse, exclusive from other sexual behavior.

(b) The Superintendent of Public Instruction shall contract with an organization to develop a video tape and supplementary materials that would teach abstinence from sexual activity.

(c) Schools electing to use this video tape may use it within the context of comprehensive health education programs.

(d) The video tape and supplementary materials shall be compatible with the Family Life Education Guidelines adopted in 1987 by the State Board of Education and shall, at a minimum, do all of the following:

(1) Present the main theme of "It's Okay To Say No To Sex," that would be directed to pupils in grades 7 to 12, inclusive.

(2) Be pupil-centered, not teacher-centered, using pupils as presenters in the video to reflect the pressure pupils feel from their peers, both male and female and from the media. The content of the video shall be acceptable for presentation on television and of high enough quality to be used as shorts on television as public service announcements.

(3) Focus on the process of decisionmaking that pupils use when confronted with decisions about engaging in sex. The video shall portray refusal skills and reflect the decisionmaking processes taught

in the school curriculum.

(4) Portray vignettes dispelling myths on why students engage in sex.

(5) Portray strategies for saying no for males and females.

(6) Discuss the topic of abstinence and encourage teens to take responsibility and make ethical and reasoned decisions in the prevention of teen pregnancy, with the idea of the video tapes being used over a long period of time.

(e) The video tape and the supplementary materials shall be reviewed by the State Board of Education. The production, review, and duplication of the abstinence video shall be completed by July 15, 1989.

SEC. 2. Section 51229.5 is added to the Education Code, to read:

51229.5. Video tapes that have already been developed and conform with the criteria established in Section 51229 may be purchased by the State Department of Education for the purposes of distribution to schools electing to use them within the context of comprehensive health education programs. The Comprehensive Health Education Resource Center within the State Department of Education may purchase and act as the distributing agent for these video tapes, using their usual selection and distribution processes. These video tapes shall represent a broad spectrum of approaches, ensuring diversity in terms of age and maturity levels, ethnic diversity, and urban, suburban, and rural environments.

SEC. 3. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the purposes of contracting for the development of a video tape and supplementary materials, pursuant to Section 51229 of the Education Code, and purchasing tapes pursuant to Section 51229.5 of the Education Code.

CHAPTER 1355

An act to add Part 6.2 (commencing with Section 52535) to Division 31 of the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987]

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

SECTION 1. Part 6.2 (commencing with Section 52535) is added to Division 31 of the Health and Safety Code, to read:

PART 6.2. CALIFORNIA HOUSING PARTNERSHIP

CHAPTER 1. GENERAL PROVISONS

52535. The Legislature finds and declares as follows:

(a) A significant amount of housing built to serve lower income households and very low income households and families is starting to disappear from the housing market. This phenomenon is due to government policies that allow prepayment of mortgages or nonrenewal of subsidy contracts after short periods of time and to changes in market forces which increase property values and create pressure to convert to middle or upper income housing or office or commercial use. In many neighborhoods, these conversions displace low-income and very low income tenants who have very limited options for relocating in comparable housing.

(b) Replacing this resource will be so expensive as to make it a practical impossibility. Scarce public resources make it extremely difficult to finance acquisition of the existing low- and very low income housing that could prevent some of this loss.

(c) There is an inadequate supply of private capital and investors committed to preserving existing low- and very low income housing for the useful life of the buildings, particularly for inner-city, troubled, small, and scattered-site housing developments. Many of the changes in the 1986 Federal Tax Reform Act have increased the difficulties of raising equity capital for lower income housing. These economic pressures will add to the depletion of the low-income and very low income housing stock.

(d) It is the policy of this state to encourage the widest possible joint participation by local and state government and nonprofit and private enterprise in the preservation and expansion of housing for low-income households and very low income households.

(e) It is in the public interest that one or more organizations should be created to encourage maximum participation by private investors and the public sector in programs and projects to preserve and expand the existing supply of low-income housing and very low income housing serving California residents.

(f) It is, additionally, in the public interest to permit a nonprofit corporation to be formed for the purpose of raising private equity capital for syndication of projects sponsored by nonprofit housing development corporations. The equity capital raised will go toward the acquisition, rehabilitation, acquisition and rehabilitation, or construction of housing and related facilities, primarily for the benefit of low-income households and very low income households.

CHAPTER 2. DEFINITIONS

52540. The following definitions shall govern the construction and interpretation of this part:

(a) "Corporation" means a corporation formed pursuant to

Section 52550.

(b) "Low-income housing" means housing available at affordable rent to lower income households, as defined in Section 50079.5.

(c) "Nonprofit corporation" means a nonprofit corporation organized pursuant to the Nonprofit Corporation Law (Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code), or a limited equity housing cooperative, as defined by Section 11003.4 of the Business and Professions Code.

(d) "Very low income housing" means housing available at affordable rents to very low income households as defined by Section 50105.

CHAPTER 3. CORPORATION

52550. (a) A nonprofit corporation may be formed to carry out the purposes of this part. The corporation is not a state entity and the officers and employees of the corporation are not officers or employees of the state and shall not be subject to state civil service.

(b) Nothing in this chapter shall be construed to preclude any person from creating other corporations and organizing other partnerships, joint ventures, or associations for the purposes set forth in this part.

52551. (a) The Governor shall appoint, subject to advice and consent of the Senate, five of the incorporators of the corporation from the categories of persons described in paragraphs (1) to (5), inclusive, of subdivision (b). The Senate Rules Committee shall appoint one of the incorporators of the corporation from the category of persons described in paragraph (6) of subdivision (b). and the Speaker of the Assembly shall appoint one of the incorporators of the corporation from the category of persons described in paragraph (7) of subdivision (b). The incorporators shall serve as the initial board of directors of the corporation. The term of office of three of the incorporators shall be for three years, the term of office of two of the incorporators shall be for two years, and the term of office of the remaining two incorporators shall be for one year, as determined by lot. The Governor shall appoint one of the seven incorporators to serve as the chairperson of the board of directors. All subsequent appointments to the board of directors shall be for three-year terms and shall be made by the appointing power described in this subdivision from the categories of persons described in subdivision (b).

(b) The board of directors shall consist of seven members committed to working with nonprofit developers to preserve and expand the state's supply of low-income and very low income housing and experienced in providing low-income and very low income housing through encouraging greater participation by private investors, nonprofit housing corporations, and local and state governments. The board of directors shall be appointed as specified in subdivision (a) from each of the following categories:

(1) An elected or appointed official of a city or county with experience in assisting nonprofit housing developers to provide housing for low-income and very low income households.

(2) A person from the savings and loan, mortgage banking, or commercial banking industry.

(3) A person knowledgeable about the tax, securities, and partnership law as they relate to low-income or very low income housing.

(4) A person experienced in developing and implementing plans for the repair and rehabilitation of existing low-income or very low income housing.

(5) A housing consultant experienced in developing and implementing programs utilizing equity capital.

(6) A person experienced in the management of rental or cooperative housing occupied by low-income or very low income households.

(7) A person from a nonprofit housing corporation experienced in working with the private sector and public sector to help preserve existing low-income or very low income housing.

(c) The representation of varied interest groups on the board of directors shall be deemed essential to obtain information for the development of policy and decisions of the board of directors. It shall not be a conflict of interest for individuals from each of the respective categories designated in subdivision (b) to serve as a member of the board of directors. If any board member has a financial interest, as described in Section 87103 of the Government Code, the interest shall be disclosed as a matter of official public record and shall be described with particularity, as determined by the other members of the board of directors. No board member shall make, participate in making, or in anyway attempt to use his or her position to influence a decision of the board of directors in which he or she knows or has reason to know that he or she has a financial interest.

Any violation of this section by a board member shall constitute grounds for disqualification as a board member.

52552. The initial board of directors shall take whatever actions are necessary or appropriate to establish the corporation, including, but not limited to, the filing of articles of incorporation.

CHAPTER 4. PURPOSES AND POWERS OF THE CORPORATION

52560. (a) In order to achieve the objectives and carry out the purposes of this part, the corporation may do all of the following:

(1) Raise equity funds, from corporations or individuals, for housing and related facilities sponsored by nonprofit housing development corporations organized pursuant to state or federal law, primarily for the benefit of very low income or low-income households.

(2) Where no local nonprofit housing development corporation

exists, plan, initiate, and carry out the acquisition, rehabilitation, acquisition and rehabilitation, or construction of housing and related facilities pursuant to state or federal law, primarily for the benefit of very low income households or low-income households, only to the extent necessary to carry out the purposes of this chapter in raising equity capital.

(3) Establish accounts necessary to accomplish the developments or projects described in paragraph (1).

(b) In order to carry out the purposes of subdivision (a), the corporation may also do any of the following:

(1) Enter into limited partnerships with private individuals or private or governmental corporations, agencies, organizations, and institutions.

(2) Act as manager or general partner of any such partnership, venture, or association.

(3) Provide technical assistance to nonprofit corporations with respect to the planning, financing, acquisition, rehabilitation, maintenance, or management of low-income or very low income housing proposed to be supported by the corporation.

(4) Make loans or grants, including grants of interest in housing and related facilities to nonprofit corporations, limited dividend corporations, or other entities for low-income or very low income housing to be supported by the corporation.

(5) Hire staff or hire or accept the voluntary services of consultants, experts, or advisory boards to aid the corporation in carrying out the purposes of this chapter.

(6) Engage in any other activities as may be necessary to carry out the purposes of this section.

(c) In carrying out the purposes and objectives of subdivision (a), the corporation shall do both of the following:

(1) Give priority to those housing developments which are having trouble attracting private capital at reasonable terms and conditions, including inner-city, rural, and small housing developments serving lower income households and very low income households.

(2) Seek to ensure that a maximum number of units shall be made available for occupancy by very low income households.

52561. (a) The corporation may arrange for the formation, as separate organizations, of partnerships organized under the laws of this state for the purpose of engaging in any activities that may be performed by the corporation and entering into partnership agreements governing the affairs of the partnerships.

(b) The partnership is authorized to enter into limited partnerships for the purpose of engaging in the preservation of existing low-income or very low income housing developments or projects in localities throughout the state.

(c) The corporation shall be a general partner or limited partner in any partnership in which it participates. The capital of the partnership and the contribution of the partners shall be in such amounts and at the times which are set forth in, or pursuant to, the

partnership agreement.

(d) The partnership shall, to the extent feasible, seek maximum participation in the decisionmaking process by the local nonprofit housing corporation.

(e) The partnership agreement shall contain provisions designed to assure all of the following:

(1) The partnership participates in low-income and very low income housing developments or projects in a manner designed to encourage the maximum participation in those housing developments by units of local or state government.

(2) The housing acquired by the partnership shall be preserved for occupancy by lower income households or very low income households for the physical life of the housing if it is economically feasible, as determined by the board of directors of the corporation. In the event that it is not economically feasible to maintain all of the units for lower income households and very low income households, one or more of the rental housing units may be made available for tenancy by households that are not lower income households or very low income households.

(3) The partnership shall, to the extent feasible, seek those investments for which there is either an inadequate supply of private capital or where private investors are not committed to preserving the housing for low-income households or very low income households for the physical life of the housing.

(4) Any displacement of any person resulting from the activities of the partnership shall be temporary in nature and necessary for the rehabilitation work. Relocation benefits shall be paid to those persons as part of the project costs.

(f) The allocation, apportionment, and taxation of income, profits, losses, and deductions among partners shall be governed by the laws otherwise applicable to those allocations and apportionments.

CHAPTER 5. REPORTS AND AUDITS

52570. (a) The corporation shall submit an annual report to the Governor for transmittal to the Legislature, commencing December 31, 1989, and annually thereafter. The report shall include a comprehensive and detailed report of the operations, activities, and financial condition of the corporation and the partnership.

(b) The accounts of the corporation and partnership shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants.

(c) The Department of Housing and Community Development shall review the reports and audits to determine compliance with the terms of any advances made to the corporation pursuant to Section 2 of the act enacting this part.

SEC. 2. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the Homeownership Assistance Fund to the Department of Housing and Community Development for

disbursement to the nonprofit corporation established pursuant to Part 6.2 (commencing with Section 52535) of Division 31 of the Health and Safety Code, pursuant to a contract between the department and the nonprofit corporation limiting use of these moneys to the startup and initial operating costs of the corporation. These moneys shall be deemed an advance and shall be fully repaid on or before five years from the date of the advance. Not less than one hundred thousand dollars ($100,000) of this advance shall be repaid on or before three years from the date of the advance, with an additional one hundred thousand dollars ($100,000) due on or before four years from the date of the advance.

CHAPTER 1356

An act to add Section 1241 to the Government Code, relating to public officers and employees.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 1241 is added to the Government Code, to read:

1241. Whenever a section of the California Constitution uses both the terms "salary" and "compensation", with respect to a public officer or employee, the terms shall be construed to apply only to salary.

CHAPTER 1357

An act to amend Sections 13960 and 13965 of the Government Code, and to add Section 13838 to the Penal Code, relating to victims of crime.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 13960 of the Government Code, as amended by Section 1.5 of Chapter 1527 of the Statutes of 1985, is amended to read:

13960. As used in this article:

(a) "Victim" means 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" means physical or emotional injury, or both. However, this article does not 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 is presumed to have sustained physical injury.

(c) "Crime" means 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 constitutes 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" means any expenses for which the victim has not and will not be reimbursed from any other source. Losses 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" means the State Board of Control.

(f) "Victim centers" means those centers as specified in Section 13835.2 of the Penal Code.

(g) "Peer counselor" means a provider of mental health counseling services who has completed a specialized course in rape crisis counseling skills development, participates in continuing education in rape crisis counseling skills development, and provides rape crisis counseling in consultation with a mental health practitioner licensed within the State of California.

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. 2. Section 13960 of the Government Code, as added by Section 1.6 of Chapter 1527 of the Statutes of 1985, is amended to read:

13960. As used in this article:

(a) "Victim" means 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" includes physical or emotional injury, or both. However, this article does not 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 is presumed to have sustained physical injury.

(c) "Crime" means 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 constitutes 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" means any expenses for which the victim has not and will not be reimbursed from any other source. Losses 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" means the State Board of Control.

(f) "Victim centers" means those centers as specified in Section

13835.2 of the Penal Code.

(g) "Peer counselor" means a provider of mental health counseling services who has completed a specialized course in rape crisis counseling skills development, participates in continuing education in rape crisis counseling skills development, and provides rape crisis counseling in consultation with a mental health practitioner licensed within the State of California.

This section shall become operative on January 1, 1990.

SEC. 3. Section 13965 of the Government Code is amended to read:

13965. (a) If the application for assistance is approved, the board shall determine what type of state assistance will best aid the victim. The board may take any or all of the following actions:

(1) Authorize a direct cash payment to a provider of psychological or psychiatric treatment or mental health counseling services, including peer counseling services provided by a rape crisis center as defined by Section 13837 of the Penal Code or to the victim, equal to the pecuniary loss attributable to medical or medical-related expenses, including counseling, 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 or rape crisis center over the objection of the victim.

Payments authorized pursuant to this paragraph for peer counseling services provided by a rape counseling center shall not exceed fifteen dollars ($15) for each hour of services provided. Those services shall be limited to individual, in-person counseling on a face-to-face basis for a period not to exceed 10 weeks plus one series of facilitated support group counseling sessions.

(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 those increases are available.

(g) Notwithstanding subdivisions (a) and (f), a victim injured between January 1, 1985, and December 31, 1985, shall be entitled to receive a maximum cash payment of forty-six thousand dollars ($46,000) if federal funds for these increases are available, but only for costs in excess of limitations provided for in subdivision (a) which are attributable to medical or medical-related expenses, except for psychological or psychiatric treatment, or mental health counseling services.

(h) Notwithstanding any conflicting provision of this chapter, the board may make additional payments for purposes described in paragraph (1) of subdivision (a) to any victim who filed an application with the board on or after December 1, 1982, who was a victim of a crime involving sexual assault, and who is a minor at the time the additional payments pursuant to this subdivision are made. The payments authorized by this subdivision shall not in the aggregate of all payments made by the board to the victim of the crime exceed twenty-three thousand dollars ($23,000), unless federal funds are available, in which case the aggregate maximum award may be increased to forty-six thousand dollars ($46,000).

SEC. 4. Section 13838 is added to the Penal Code, to read:

13838. "Peer counselor" means a provider of mental health counseling services who has completed a specialized course in rape crisis counseling skills development, participates in continuing education in rape crisis counseling skills development, and provides rape crisis counseling in consultation with a mental health practitioner licensed within the State of California.

CHAPTER 1358

An act to amend Section 1500 of, and to add Section 1500.5 to, the Fish and Game Code, and to add Sections 14957 and 14959 to the Government Code, to add Sections 5027 and 5080.37 to the Public Resources Code, to amend Section 2 of Chapter 1266 of the Statutes of 1982, and Sections 1 and 4 of Chapter 1190 of the Statutes of 1983, to amend and supplement the Budget Act of 1987 (Chapter 135 of the Statutes of 1987) by adding Item 3790-102-742 to Section 2 thereof, and to repeal Chapter 873 of the Statutes of 1982 and Section 4.5 of Chapter 1087 of the Statutes of 1985, relating to public property, and making an appropriation therefor.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

I am deleting the $200,000 appropriation contained in Section 15 of Senate Bill No 53.

Section 15 would add Item 3790-102-742 to the Budget Act of 1987 (Chapter 135, Statutes of 1987) appropriating $200,000 from the State, Urban, and Coastal Park Fund to the County of Riverside, Jenson-Alvarado Ranch for local assistance. I had previously deleted a similar appropriation from Item 3790-101-036 of the Budget Act of 1987 (Chapter 135, Statutes of 1987)

Counties and other local agencies have already received $100 million from the State, Urban and Coastal Park Fund for local park projects I believe that any money remaining in this fund should be used for state park projects

With this deletion, I approve Senate Bill No. 53

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 1500 of the Fish and Game Code is amended to read:

1500. The department may, with the approval of the commission and the Department of General Services, exchange any portion of the property lying within the boundaries of any area or range referred to in this section for any property within or contiguous to such area or range or may sell any portion of the property within such boundaries and with the proceeds thereof acquire any property within or contiguous to such area or range; provided, that no exchange or sale of property authorized in this section shall materially reduce the total area of any range or area referred to in this section. A copy of each deed of conveyance executed and delivered by the department, and of each deed conveying lands to the state, pursuant to this section shall be delivered to the State Lands Commission.

The provisions of this section apply to all of the following:

(a) The Doyle Deer Winter Range, located in Lassen County.

(b) The Tehama Deer Winter Range, located in Tehama County.

(c) The Honey Lake Waterfowl Management Area, located in Lassen County.

(d) The Imperial Waterfowl Management Area, located in Imperial County.

(e) The Mendota Waterfowl Management Area, located in Fresno County.

(f) The San Jacinto Wildlife Area, located in Riverside County.

(g) The Lakes Earl/Talawa Wildlife Area, located in Del Norte County.

(h) The Santa Rosa Mountains Bighorn Sheep Reserve, located in Riverside County.

(i) The Camp Cady Wildlife Area, located in San Bernardino County.

(j) The Butte Valley Wildlife Area, located in Siskiyou County.

(k) The Ash Creek Wildlife Area, located in Lassen and Modoc Counties.

(*l*) The Moss Landing Wildlife Area, located in Monterey County.

SEC. 2. Section 1500.5 is added to the Fish and Game Code, to read:

1500.5. With respect to exchanging or selling any property pursuant to Section 1500, the director, with respect to any parcel containing 15 acres or less, shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet, without surface rights of entry. As to any parcel containing more than 15 acres, the director shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, together with the right to prospect for, mine, and remove the deposits.

The rights to prospect for, mine, and remove shall be limited to those areas of the property conveyed which the director, after consultation with the State Lands Commission, determines to be reasonably necessary for the removal of the resources and deposits.

SEC. 2.1. Section 14957 is added to the Government Code, to read:

14957. The Division of Architecture Revolving Fund in the State Treasury is continued in existence and is retitled the Architecture Revolving Fund. With the approval of the Department of Finance, and except as otherwise specified in this section, there shall be transferred to, or deposited in, the fund all money appropriated, contributed, or made available from any source, including sources other than state appropriations, for expenditure on work within the powers and duties of the Department of General Services with respect to the construction, alteration, repair, and improvement of state buildings, including, but not limited to, services, new construction, major construction and equipment, minor construction, maintenance, improvements, and equipment, and other building and improvement projects, as authorized by the state agency for which an appropriation is made or, as to funds from sources other than state appropriations, as may be authorized by written agreement between the contributor or contributors of funds and the Department of General Services, when approved by the Department of Finance.

Money from state sources transferred to, or deposited in, the fund for major construction shall be limited to the amount necessary based on receipt of competitive bids. Money transferred for this purpose shall be upon approval of the Department of Finance. Any amount available, in the state appropriation, which is in excess of the amount necessary based on receipt of competitive bids, shall be immediately transferred to the credit of the fund from which the appropriation was made.

Money in the fund also may be used, upon approval of the Department of Finance, to finance the cost of any construction projects within the powers and duties of the Department of General Services for which the federal government will contribute a partial cost thereof; provided, written evidence has been received from a federal agency that money has been appropriated by Congress and

the federal government will pay to the state the amount specified upon the completion of construction of the project. The Director of General Services may approve plans, specifications and estimates of cost, and advertise for and receive bids on such projects in anticipation of the receipt of such evidence.

Money so transferred or deposited is available for expenditure by the Department of General Services for the purposes for which appropriated, contributed, or made available, without regard to fiscal years and irrespective of the provisions of Section 16304.

SEC. 2.2. Section 14959 is added to the Government Code, to read:

14959. The Department of General Services shall keep a record of all expenditures chargeable against each specific portion of the revolving fund, and any unencumbered balance in any portion of the fund, either within three months after completion of the project for which the portion was transferred or within three years from the time the portion was transferred or deposited therein, whichever is the earlier, shall be withdrawn from the revolving fund and transferred to the credit of the fund from which the appropriation was made or, as to funds from other than state appropriations, be paid out or refunded as provided in the agreement relating to the contributions; provided, that on approval of the Department of Finance the time of the withdrawal may be extended.

For the purpose of this section an estimate, prepared by the Department of General Services upon receipt of bids, of the amount required for supervision, engineering, and other items, if any, necessary for the completion of a project on which a construction contract has been awarded shall be deemed a valid encumbrance and be included with any other valid encumbrances in determining the amount of an unencumbered balance.

SEC. 2.3. Section 5027 is added to the Public Resources Code, to read:

5027. Any building or structure that is listed on the National Register of Historic Places and is transferred from state ownership to another public agency shall not be demolished, destroyed, or significantly altered, except for restoration to preserve or enhance its historical values, without the prior approval of the Legislature by statute. This section applies to any building or structure transferred from state ownership to another public agency after January 1, 1987.

SEC. 2.5. Section 5080.37 is added to the Public Resources Code, to read:

5080.37. (a) The Legislature hereby finds and declares that revenues generated at Santa Monica State Beach may be expected to exceed the total costs incurred by the City of Santa Monica in caring for, maintaining, operating, administering, improving, and developing the unit and that a portion of those revenues may appropriately be made available to provide for the safety and convenience of the general public in the use and enjoyment of, and the enhancement of recreational experiences at, the Santa Monica

City pier and other related shorefront facilities owned and operated by the City of Santa Monica.

(b) Accordingly, notwithstanding Section 5080.32, whenever revenues generated from all sources at Santa Monica State Beach exceed the actual costs incurred by the City of Santa Monica in caring for, maintaining, operating, administering, improving, and developing that unit and exceed any foreseeable needs for the further improvement and development of that unit, the surplus shall be available for appropriation in the Budget Act to the city, as a local assistance grant, in the succeeding fiscal year for the repair of the Santa Monica pier and the improvement and development of parking facilities providing access to the pier until that repair, improvement, and development is complete. After the repair, improvement, and development is completed, 25 percent of the excess revenues shall be available for appropriation in the Budget Act to the city as a local assistance grant for the further improvement and development of the pier and other shorefront facilities owned and operated by the City of Santa Monica that adjoin the state beach.

(c) The amount of any surplus shall be determined by the director, and the department may perform audits as may be necessary to determine this amount.

SEC. 3. The Director of General Services, with the approval of the State Public Works Board and the Director of Parks and Recreation, may sell or exchange for current market value or for any lesser consideration authorized by law and upon such terms and conditions and subject to such reservations and exceptions as the Director of General Services deems to be in the best interest of the state, all or any part of the following real property:

PARCEL 1. Approximately 5,100 square feet with a structure, known as 22879 Gold Springs Road, Columbia, County of Tuolumne.

PARCEL 2. Approximately 11.65 acres, being a portion of San Buenaventura State Beach, consisting of the public pier and that portion of the land located within the existing state beach commencing at the most westerly boundary of the state beach and extending easterly to a line to be established that is approximately 50 feet easterly of the east side of the pier. The property shall be transferred on the condition that it be used only for public recreational purposes. Upon any breach of this condition, the state may reenter the property, and upon that reentry, the interest of the transferee shall terminate and ownership shall be entirely in the state.

PARCEL 3. Approximately 170 acres, being a portion of Henry W. Coe State Park fronting on Gilroy Hot Springs Road, located in Section 6, T10S, R5E, Mt. Diablo Base and Meridian, County of Santa Clara.

PARCEL 4. Approximately two acres, consisting of a narrow strip parcel along the easterly boundary of Redondo State Beach and parallel to the Esplanade between Ruby Street and Nob Hill Avenue, Redondo Beach, County of Los Angeles.

PARCEL 5. Approximately 4,000 square feet, being a portion of Topanga State Park fronting on Paseo Miramar, located in Tract No. 10175, County of Los Angeles.

PARCEL 6. Approximately 0.063 acre, being a portion of San Clemente State Beach, consisting of a portion of Lot 114, Tract No. 961, as shown on that certain map recorded in the Office of the County Recorder of Orange County and filed in Book 30 of Miscellaneous Maps, at page 31, and a portion of Lot 1, Tract No. 1314, as shown on that certain map recorded in the Office of the County Recorder of Orange County and filed in Book 42 of Miscellaneous Maps at page 17, City of San Clemente, County of Orange. This authorization does not include a 25-foot strip along the southerly edge of both lots directly abutting Avenida Califia, which shall be retained by the Department of Parks and Recreation for the protection of its natural, scenic, or open-space values.

SEC. 4. The Director of General Services, with the approval of the State Public Works Board and the Director of Parks and Recreation, may exchange, for current market value only, and upon such terms and conditions and subject to such reservations and exceptions as the Director of General Services deems to be in the best interest of the state, all or any part of the 342 acres constituting Placerita Canyon State Park, County of Los Angeles. That state park shall be exchanged only for other recreational or park lands. The County of Los Angeles shall agree, as a condition of the exchange, to operate the former state park property as a county park in perpetuity and no other use of the former state park property shall be permitted except by specific act of the Legislature. Upon any breach of these conditions, the state may reenter the property and, upon that reentry, the interest of the County of Los Angeles shall terminate and ownership shall vest entirely in the state.

SEC. 4.5. There is hereby transferred to the City of Los Angeles all the right, title, and interest of the state in that property known as El Pueblo de Los Angeles State Historic Park, including all real and personal property of the park, on the condition that the property be used as a public park or monument. The park shall hereafter be known as El Pueblo de Los Angeles Historic Monument. Not later than January 1, 1989, the Director of General Services shall take all steps necessary to reflect the transfer of the right, title, and interest of the state in the park to the city.

The development and operation of the property transferred shall conform to the general plan for El Pueblo de Los Angeles State Historic Park adopted pursuant to Section 5002.2 of the Public Resources Code and current at the time of the transfer, except that the plan may be amended by the City of Los Angeles in accordance with the procedures for the amendment of specific plans set forth in Article 8 (commencing with Section 65450) and Article 9 (commencing with Section 6500) of Chapter 3 of Division 1 of Title 7 of the Government Code, if, prior to the adoption of any amendment, duly noticed public hearings are conducted by the

appropriate city board or commission and by the City Council of the City of Los Angeles. In maintaining consistency between any amendments to the general plan for the historic monument and the city's general plan, the city shall consider the development criteria of Section 5019.59 of the Public Resources Code.

The City of Los Angeles shall operate, improve, maintain, construct, remodel, and perform any and all necessary activities at the historic monument, either directly or through independent contractors, as it deems appropriate. These activities shall be undertaken in compliance with the United States Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures."

The joint powers agreement of April 1, 1974, regarding this property is hereby suspended.

The City of Los Angeles shall allow the state, at the state's option, to remain and continue to occupy the existing state offices and four parking spaces located within the park at no cost to the state.

Upon any breach of any of these conditions, the state may reenter the property, and upon that reentry, the interest of the City of Los Angeles shall terminate and ownership shall be entirely in the state.

SEC. 5. The Director of General Services, with the approval of the State Public Works Board, may sell, exchange, or lease for current market value or for any lesser consideration authorized by law and upon such terms and conditions and subject to such reservations and exceptions as the Director of General Services determines are in the best interest of the state, all or any part of the following real property:

PARCEL 1. Approximately 1.84 acres with a structure, known as 3500 South Hope Street, Los Angeles.

PARCEL 2. Approximately 4,000 square feet, with a structure, known as 540 Van Ness Avenue, San Francisco.

PARCEL 3. Approximately 0.45 acre, with a structure, known as 2985 Johnstonville Road, Susanville, County of Lassen.

PARCEL 4. Approximately 0.53 acre, with a structure, known as 605 Antelope Boulevard, Red Bluff, County of Tehama.

SEC. 6. The Director of General Services, with the approval of the State Public Works Board, may exchange, for current market value only, and upon such terms and conditions and subject to such reservations and exceptions as the Director of General Services deems to be in the best interest of the state, all or any part of the approximately 4.73 acres, with several structures, known as 2 South Forest Road, Sonora, County of Tuolumne.

This section 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. 7. Notice of every public auction or bid opening shall be posted on the property to be sold under Sections 2 and 3 and shall be published in a newspaper of general circulation published in the county in which the real property to be sold is situated. All parcels described in Sections 3, 4, 5, and 6 are exempt from Sections 21100

to 21174, inclusive, of the Public Resources Code.

SEC. 8. (a) Any cost or expense incurred in the disposition of any parcels may be reimbursed, subject to appropriation therefor by the Legislature, from the proceeds of that disposition.

(b) Subject to subdivision (a), any moneys received from the disposition of any parcel described in Sections 3, 4, 5, and 6 shall be paid into the Property Acquisition Law Account in the General Fund pursuant to Section 15863 of the Government Code, except as follows:

(1) The net proceeds of any sale of state park property shall be deposited as provided in Section 5003.15 of the Public Resources Code and, in particular, the net proceeds of the sale of Parcel 3 of Section 3 shall be deposited in the Parklands Fund of 1984 and shall be reserved solely for future acquisitions at Henry W. Coe State Park.

(2) The net proceeds from the sale of Parcels 3 and 4 of Section 5 shall be deposited in the Motor Vehicle Account in the State Transportation Fund.

SEC. 9. As to any property sold pursuant to Sections 3, 4, 5, and 6 containing 15 acres or less, the Director of General Services shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet, without surface rights of entry. As to any property sold pursuant to Sections 3, 4, 5, and 6 containing more than 15 acres, the Director of General Services shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, together with the right to prospect for, mine, and remove the deposits. The rights to prospect for, mine, and remove shall be limited to those areas of the property conveyed which the director, after consultation with the State Lands Commission, determines to be reasonably necessary for the removal of the resources and deposits.

SEC. 10. Chapter 873 of the Statutes of 1982 is repealed.

SEC. 11. Section 2 of Chapter 1266 of the Statutes of 1982 is amended to read:

Sec. 2. The Director of General Services, with the approval of the State Public Works Board and the Director of Parks and Recreation, is hereby authorized to exchange upon those terms, conditions and with such reservations and exceptions which in his or her opinion may be in the best interest of the state, all or part of the following described property:

PARCEL 1. Approximately 0.8 acre consisting of two parcels of land located on the northerly side of Headlands Drive within the Caspar Headlands Subdivision in the County of Mendocino.

PARCEL 2. Approximately 0.72 acre located northerly of State Highway 1, which constitutes a portion of Malibu Lagoon State Beach in Los Angeles County.

SEC. 12. Section 1 of Chapter 1190 of the Statutes of 1983 is amended to read:

Section 1. The Director of General Services, with the approval of

the State Public Works Board, is hereby authorized to sell, exchange, or lease for current market value, or for any lesser consideration authorized by law, and upon those terms and conditions and with such reservations and exceptions which in his or her opinion may be in the best interest of the state, all or any part of the following real property:

PARCEL 1. Approximately 3 acres of land located at Patton State Hospital on the north side of Lynwood Drive, in the County of San Bernardino.

PARCEL 2. Approximately 3.25 acres of land located on the northerly side of Cypress Avenue in the City of Redding, being a portion of the Department of Fish and Game facilities in the County of Shasta.

PARCEL 3. Approximately 21.4 acres of land located on the south side of Bird Farm Road at Pomona Rincon Road in the County of San Bernardino, being currently known as the Chino Fish and Wildlife Base and formerly known as the Los Serranos Game Farm.

PARCEL 4. Approximately 40 acres of land at Sonoma State Hospital, situated along the facility's east boundary line adjacent to Highway Route 12 in Sonoma County.

SEC. 13. Section 4 of Chapter 1190 of the Statutes of 1983 is amended to read:

Sec. 4. The Director of General Services, with the approval of the State Public Works Board and the Director of Parks and Recreation, is hereby authorized to convey or exchange upon those terms, conditions, and with such reservations and exceptions which in his or her opinion may be in the best interest of the state, all or part of the following described property:

PARCEL 1. Approximately 0.03 acre of land being a portion of the Tahoe State Recreation Area located on the east side of State Highway Route 89, just south of the Truckee River, Placer County.

PARCEL 2. Approximately 1.02 acres being a portion of Chino Hills located adjacent to the westerly boundary of Baldwin Company Ltd. at the terminus of Valley Center Drive in the City of Yorba Linda, Orange County.

PARCEL 3. Approximately 10.01 acres and the public pier at Avila State Beach, San Luis Obispo County.

PARCEL 4. Approximately 0.80 acre at Moonlight State Beach comprised of seven undeveloped lots in the City of Encinitas, San Diego County, except for three of those lots with assessor's parcel numbers 258-074-14, 258-074-15, and 258-074-16.

SEC. 14. Section 4.5 of Chapter 1087 of the Statutes of 1985 is repealed.

SEC. 15. Item 3790-102-742 is added to Section 2 of the Budget Act of 1987 (Chapter 135 of the Statutes of 1987), to read:

3790-102-742—For local assistance, Department of Parks and Recreation, payable from the State, Urban, and Coastal Park Fund 200,000
Schedule:
(1) County of Riverside, Jensen-Alvarado Ranch 200,000

CHAPTER 1359

An act to add Section 19320.5 to, and to add Article 4.5 (commencing with Section 18735) to Chapter 4 of Part 11 of, the Education Code, relating to public libraries, and making an appropriation therefor.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987]

I am deleting the $50,000 appropriation contained in Section 4 and the $400,000 appropriation contained in Section 5 of Senate Bill No. 482.

This bill would appropriate $450,000 to create a new state program entitled the Families for Literacy Program This program would provide assistance to adults, and to children up to the age of five years, to prevent illiteracy

The demands placed on budget resources require all of us to set priorities The budget enacted in July, 1987 appropriated nearly $41 billion in state funds This amount is more than adequate to provide the necessary essential services provided for by State Government It is not necessary to put additional pressure on taxpayer funds for programs that fall beyond the priorities currently provided.

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties.

I would, however, consider funding the provisions of this bill during the budget process for Fiscal Year 1988–89. It is appropriate to review the relative merits of this program in comparison to all other funding projects. The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit.

With this deletion, I approve Senate Bill No 482

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. (a) The Legislature finds and declares that there are an estimated 4.8 million California adults who are functionally illiterate. The Legislature further finds that illiteracy tends to be perpetuated in a cycle from parents to children and, therefore, that without intervention many children of illiterate adults in California are likely to become functionally illiterate.

(b) The Legislature recognizes that a strong and frequent reason for illiterate adults to begin literacy training programs is to learn to read to their children so that they can prevent the probable illiteracy of their children.

(c) In addition, the Legislature recognizes that between 1980 and 1985, the population of infants and young children under six increased by 25 percent from 2.04 to 2.55 million. Of these, 800,000 live in families below or near the poverty line.

(d) The Legislature further recognizes that illiteracy can be prevented and that reading preparation activities, whereby young children are read to and exposed to books by their parents are effective measures toward preventing future reading difficulties. Illiterate parents can also improve their own reading skills through reading to their children. In addition, parents and children learning together can provide units of mutual support. The Legislature further recognizes that the public library literacy services of the California Literacy Campaign are currently reaching thousands of illiterate adults throughout California, and the habit of public library use as children is the most significant correlate of adult library use.

(e) It is the intent of the Legislature in enacting this article to establish a library services program that is directed to breaking the "cycle of illiteracy" through coordinated literacy and preliteracy services to families that include illiterate adults and young children.

SEC. 2. Article 4.5 (commencing with Section 18735) is added to Chapter 4 of Part 11 of the Education Code, to read:

Article 4.5. Families for Literacy Program

18735. There is hereby created the Families for Literacy Program, a library services program with the purpose of preventing illiteracy through coordinated literacy and preliteracy services to families that include illiterate adults and young children. The program shall provide reading preparation services for young children in public library settings and shall instruct parents in reading to their children. In addition, the program shall provide technical assistance, parent support, and any resources and materials necessary for its implementation.

18735.1. To be eligible to receive funding for the Families for Literacy Program, a public library shall meet all of the following requirements:

(a) Is currently offering literacy services.

(b) Agrees to offer new services to families with young children with the goal of helping the children become successful readers by increasing their general competence, self-confidence, and positive emotional associations with reading as a family experience and familiarity with the lifelong use of library resources. Recruitment of parents not previously included in public library literacy programs is a high priority.

(c) Families eligible for the program shall include, but not be limited to, young children up to the age of five years.

(d) Program meetings shall be held in public library settings.

(e) The public library literacy program staff and children's services staff shall work in close coordination with the State Library

in administering the Families for Literacy Program to assure maximum integration of literacy services to parents and preliteracy services to their children.

18735.2. Services offered by a public library under this article shall include the following:

(a) Acquisition of books, of appropriate reading levels for, and containing subjects of interest to, children for ownership by young children of families participating in the program.

(b) Regular meetings of parents and children in public library settings during hours that are suitable for parents and their children.

(c) Storytelling, word games, and other exercises designed to promote enjoyment of reading in adults and children.

(d) Use of children's books and language experience stories from the meetings as material for adult literacy instruction.

(e) Instruction for parents in book selection and reading aloud to children.

(f) Services to enhance full family participation and to foster a family environment conducive to reading.

(g) Assistance to parents in using services in order to access books and other materials on such topics as parenting, child care, health, nutrition, and family life education.

(h) Other services, as necessary to enable families to participate in the Families for Literacy Program.

18735.3. The State Library shall provide administrative support and technical assistance to public libraries in the development and operation of local projects. The California Library Services Board shall award project grants for the Families for Literacy Program on a competitive basis to eligible public libraries and monitor the activities and progress of these projects once established.

18735.4. The State Library shall coordinate research to support program planning and evaluation of the Families for Literacy Program. Research activities shall include all of the following:

(a) Collection and interpretation of demographic data on children and families, including the number and ages of children, the location of children within rural and urban areas, the family characteristics of these children, and the ethnicity and primary language of these children.

(b) Formative evaluation of the program's effectiveness submitted to the Legislature by January 2, 1990, to determine: (1) if the program has been successful in engaging parents and children positively in reading together, (2) if the program has resulted in measurable literacy progress for adults and reading preparation for children, (3) the number of families served, and (4) the number of adults that have obtained basic literary skills through the program. The State Library shall include with its annual formative evaluation to the Legislature any recommendations it may have for changes in the program.

(c) Development of applications of the results of the program, as well as the collective experiences of other library programs, to

teacher development and training.

(d) Review of public library children's services to identify key factors in the design and development of programs that enhance full family participation in reading and learning activities, especially those that are suitable to the needs of the disadvantaged child.

SEC. 3. Section 19320.5 is added to the Education Code, to read:

19320.5. The State Librarian shall employ a consultant to provide technical assistance to public libraries in the development and enhancement of library services to children and youth.

SEC. 4. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the State Library for costs in the 1987–88 fiscal year pursuant to Section 19320.5 of the Education Code.

SEC. 5. The sum of four hundred thousand dollars ($400,000) is hereby appropriated from the General Fund for the purposes of Article 4.5 (commencing with Section 18735) of Chapter 4 of Part 11 of the Education Code, for allocation as follows:

(1) One hundred thousand dollars ($100,000) for technical assistance and research.

(2) Three hundred thousand dollars ($300,000) for the purpose of making grants to public libraries for family services pursuant to that article.

CHAPTER 1360

An act to amend Section 20017.97 of the Government Code, and to amend Section 12201 of the Penal Code, relating to crime, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987]

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

SECTION 1. Section 20017.97 of the Government Code is amended to read:

20017.97. "State peace officer/firefighter member" also means:

(a) All persons in the Department of Corporations, office of the Secretary of State, office of the Controller, and the Public Employees' Retirement System employed on a full-time permanent basis with the class title of Special Investigator (Class Code 8553), Senior Special Investigator (Class Code 8550), Investigator Trainee (Class Code 8555) and Investigator Assistant (Class Code 8554) who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(b) All persons employed on a full-time permanent basis with the class title of Sergeant State Fair Police (Class Code 1946), State Fair

Police Officer (Class Code 1945), Lottery Agent (Class Code 8602), Senior Investigator, Structural Pest Control Board (Class Code 8821), Investigator Structural Pest Control Board (Class Code 8802), District Representative I and II, Division of Codes and Standards (Class Codes 8960 and 8958), Deputy Registrar of Contractors I and II (Class Codes 8793 and 8792), Polygraph Examiners, California Youth Authority (Class Code 8542), Community Services Consultant I (Class Code 9717), or Parole Service Associate (Class Code 9776) who have been designated as peace officers as defined in Sections 830.2, 830.3, and 830.5 of the Penal Code.

(c) All persons employed on a full-time permanent basis with the class title of Deputy State Fire Marshal Intern (Class Code 8980).

(d) All persons employed on a full-time permanent basis with the class title of Forester I (Class Code 1054).

Any person so designated may elect, within 90 days of notification by the board, to remain subject to the service retirement benefit and the normal rate of contribution applicable prior to the effective date that this section is applicable to the member by filing an irrevocable notice of election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21251.13 only for service also included in the federal system.

This section shall not become applicable to any member so designated until such time as a ruling or regulation authorizing the inclusion of persons so designated within the definition of "policeman or fireman" is issued by the federal agency for purposes of Section 218(d)(5)(A) of the Social Security Act.

SEC. 2. Section 12201 of the Penal Code is amended to read:

12201. Nothing in this chapter shall prohibit the sale to, purchase by, or possession of machineguns by police departments, sheriffs' offices, city marshal's offices, the California Highway Patrol, the Department of Justice, or the military or naval forces of this state or of the United States for use in the discharge of their official duties; nor shall anything in this chapter prohibit the possession of machineguns by regular, salaried, full-time peace officer members of a police department, sheriff's office, city marshal's office, the California Highway Patrol, or the Department of Justice when on duty and their use is within the scope of their duties.

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 enable units of the California Highway Patrol and the Department of Justice to better perform their protective duties, and in order to include persons in the office of the Secretary of State within the state peace officer/firefighter category of PERS membership at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1361

An act to add Chapter 6.8 (commencing with Section 5565.10) to Part 1 of Division 5 of the Welfare and Institutions Code, relating to children's mental health.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Chapter 6.8 (commencing with Section 5565.10) is added to Part 1 of Division 5 of the Welfare and Institutions Code, to read:

CHAPTER 6.8. CHILDREN'S MENTAL HEALTH SERVICES ACT

Article 1. General Provisions and Definitions

5565.10. This article shall be known and may be cited as the Children's Mental Health Services Act.

5565.11. The Legislature finds all of the following:

(a) That there is no adequate comprehensive system for the delivery of mental health services to children with serious emotional disturbance and to their families or foster families.

(b) That services to children are provided by various departments and agencies at both the state and county levels, often without appropriate collaboration.

(c) That mental health services to children provided in the demonstration project under Chapter 7 (commencing with Section 5575) have increased agency collaboration and produced a comprehensive service system.

(d) That preliminary results of this demonstration project show potential substantial cost avoidance, and cost benefits which include:

(1) Enabling the child to remain at home whenever possible.

(2) Providing placement in the least restrictive and least costly setting consistent with the child's needs.

(3) Enabling the child to receive out-of-home services in as close a proximity as possible to the child's usual residence.

5565.12. By January 29, 1988, the State Department of Mental Health shall review the progress reports of the demonstration project under Chapter 7 (commencing with Section 5575). The State Department of Mental Health shall proceed to implement this chapter only if the demonstration project meets either of the following:

(a) The total estimated cost avoidance in all of the following categories (1) to (5), inclusive, shall equal or exceed the demonstration project costs:

(1) Group home costs paid by Aid to Families with Dependent

Children-Family Care (AFDC-FC).

(2) Children and adolescent state hospital programs.

(3) Nonpublic school residential placement costs.

(4) Juvenile justice reincarcerations.

(5) Other short-and long-term savings in public funds resulting from the demonstration project.

(b) If the State Department of Mental Health determines that the total cost avoidance listed in subdivision (a) does not equal or exceed demonstration project costs, the State Department of Mental Health shall determine that the demonstration project has achieved substantial compliance with all of the following goals:

(1) Total cost avoidance in the categories listed in subdivision (a) to exceed 50 percent of demonstration project costs.

(2) A 20 percent reduction in out-of-county court-ordered placements of juvenile justice wards and social service dependents.

(3) A statistically significant reduction in rate of recidivism by juvenile offenders participating in the demonstration project.

(4) A 25 percent reduction in the rate of state hospitalizations of minors from the baseline fiscal year 1980–81 level.

(5) A 10 percent reduction in out-of-county nonpublic school residential placements of special education pupils.

(6) Allow at least 50 percent of children at risk of imminent placement served by the intensive in-home crisis treatment program to remain at home at least six months.

(7) Statistically significant improvement in school attendance and academic performance, of mental disordered special education pupils treated in the demonstration project's day treatment program.

5565.13. It is the intent of the Legislature to do all of the following:

(a) To phase in the system developed in the demonstration project under Chapter 7 (commencing with Section 5575) statewide, once final results are available from the project and assuming that these results demonstrate achievement of benefits as described in subdivision (d) of Section 5565.11. The Legislature recognizes that a major component of this system began in the 1984–85 fiscal year through the implementation of Chapter 1474 of the Statutes of 1984.

(b) To create and fund a coordinated comprehensive mental health services system for children with serious emotional disturbance and to their families or foster families in participating counties.

(c) To develop a system which will include joint evaluation of the child, and give priority to all of the following:

(1) Enabling the child to remain at home whenever possible.

(2) Providing placement in the least restrictive and least costly setting consistent with the child's needs.

(3) Enabling the child to receive out-of-home services in as close a proximity as possible to the child's usual residence.

(d) To separately identify and categorize funding for these

services.

5565.14. "Children with serious emotional disturbance," for the purposes of this chapter, means minors, under the age of 18 years, who meet the definition contained in Section 5697, and who are one or more of the following:

(a) A ward or dependent of the court, pursuant to Section 300, 601, or 602, and placed out-of-home.

(b) A special education student, as defined by paragraph 8 of subdivision (b) of Section 300.5 of Title 34 of the Code of Federal Regulations, and receiving residential care pursuant to an individualized education program. This section also includes special education students through age 21 identified in paragraph (4) of subdivision (c) of Section 56026 of the Education Code.

(c) An inpatient in a psychiatric hospital, psychiatric health facility, or residential treatment facility receiving services either on a voluntary or involuntary basis.

(d) An outpatient receiving intensive non-24-hour mental health treatment, such as day treatment or crisis services who is "at risk" of psychiatric hospitalization or out-of-home placement for residential treatment.

Article 2. State Administration

5565.20. There is hereby established a children's comprehensive mental health services system for children with serious emotional disturbance that is a comprehensive system of coordinated care based on the demonstration project under Chapter 7 (commencing with Section 5575) and the 1983 State Department of Mental Health planning model for children's services. Each participating county shall adapt the model to local needs and priorities.

5565.21. County participation under this chapter shall be voluntary.

5565.22. The State Department of Mental Health may contract with counties whose programs have been approved by the department in accordance with Section 5565.23. A county may request to participate under this chapter each year according to the terms set forth in Section 5705.2 for the purpose of establishing a three-year program proposal for developing and implementing a children's comprehensive mental health services system. The contract shall be negotiated on a yearly basis, depending on the results of each implementation phase.

5565.23. The county program proposal, in its entirety, as well as the first-, second-, and third-year components, is subject to approval by the State Department of Mental Health. A county may be approved for participation when readiness is determined by the State Department of Mental Health and when the department determines that the program proposals submitted adequately meet program protocols which shall be developed by the State Department of Mental Health.

5565.24. The county program proposal shall be a joint proposal with all affected local agencies and shall include all of the following:

(a) The elements as described in Article 3 (commencing with Section 5565.30).

(b) Those elements that the county feels appropriate as described in the proposed planning model for the continuum of care for emotionally disturbed children published by the State Department of Mental Health in 1983.

(c) A detailed description of the cost benefit and cost avoidance of the program proposal.

5565.25. The State Department of Mental Health shall establish an advisory group comprised of, but not limited to, representatives from the State Departments of Education, Social Services, Mental Health, and the Youth Authority, representatives from the Conference of Local Mental Health Directors, California Council on Mental Health, County Welfare Director's Association, Chief Probation Officers Association, School Administrators Association, and a representative of the service providers from the private sector. The function of the advisory group shall be to advise and assist the state in the development of a coordinated, comprehensive mental health services system under this chapter and other duties as defined by the Director of Mental Health.

5565.26. The Legislature recognizes that the development of the comprehensive system under this chapter is different for small counties under 100,000 population. In recognition of that fact, the State Department of Mental Health shall establish a task force consisting of representatives from these small counties, from the Conference of Mental Health Directors, Conference of Welfare Directors, School Administrators Association and Chief Probation Officers Association to develop appropriate modifications and requirements of the model for these small counties. Recognition shall be given to the administrative costs involved in small county program development.

Article 3. County Requirements

5565.30. Each county wishing to participate under this chapter shall develop a three-year program proposal for phasing in the children's comprehensive mental health services system. The three-year program proposal shall include all of the following:

(a) The components of the system the county proposes to implement in the first year which shall include a case management component.

(b) The components of the system the county intends to implement in the second year.

(c) The remaining components of the system the county intends to implement in the third year. All components shall be in place by the end of the third year.

5565.31. In addition, county program proposals shall contain all of

the following:

(a) Use of existing service capabilities within the various agencies currently serving children's needs in that county.

(b) Interagency collaboration by all publicly funded agencies for children experiencing emotional disturbances.

(c) Appropriate written interagency protocols and agreements.

(d) Services for the most difficult to place children.

(e) Services permitting the child to reside in his or her usual family setting, whenever possible, in the interest of the child.

(f) Where a joint evaluation indicates that out-of-home care and treatment is required, insure that these services are provided in the least restrictive setting consistent with effective services and in as close proximity as possible to the child's usual residence.

5565.32. (a) No later than April 1 of each year, beginning with April 1, 1988, each county that wishes to participate in the program under this chapter shall have a program proposal for the development of a coordinated system of services to address the needs of children with serious emotional disturbance.

(b) Each county program proposal shall include protocols developed in the county for case assessment designed to do all of the following:

(1) Determine the least restrictive appropriate mental health treatment setting for each child.

(2) Plan and facilitate the provision of needed services for the child and family when necessary and monitor those services.

(3) Provide methods for client and family advocacy to occur within the system.

(c) Each county that wishes to participate in the program under this chapter shall initiate discussions with other public agencies serving children with serious emotional disturbance, including, but not limited to, special education, foster care, and child protective and juvenile justice services to identify common needs and joint planning opportunities.

5565.33. Participating counties shall, prior to the submission of their program proposal, develop baseline data on children served by the county in the mental health services system, social services system, the juvenile justice system, and the special education system. Data shall include, but not be limited to, current expenditures for out-of-home care, nonpublic school placements and state hospital costs. This baseline data shall be submitted to the department as part of their program proposal.

5565.35. Counties shall demonstrate a maintenance of effort in children's services. Any reduction of existing Short-Doyle children's services shall be identified and justified in the program proposal developed under this chapter.

5565.36. Each participating county shall do both of the following:

(a) Develop an interagency children's policy council. The members of the council shall include, but not be limited to, the directors of major participating local government agencies, such as

juvenile justice, district attorney, public defender, county counsel, sheriff, superintendent of county schools, public social services, mental health, and a representative of the private sector.

(b) Establish an interagency case management council.

Article 4. Reports

5565.40. The State Department of Mental Health shall have data available on the services provided through this chapter by March 1 of each year, including service utilization data, expenditures, and demonstrated cost savings and cost avoidance in the participating counties.

SEC. 2. The Legislature recognizes that county mental health staff with experience in developing these systems under the Children's Mental Health Services Act, Chapter 6.8 (commencing with Section 5565.10) of Part 1 of Division 5 of the Welfare and Institutions Code, can provide the best consultation to other county personnel. Use of county mental health staff shall be on approval of the local mental health director.

Notwithstanding any other provision of this act, compliance with the requirements resulting from this act shall be subject to appropriation through the Budget Act. In addition to Budget Act appropriations, funding may come from any source which may be available to the county.

CHAPTER 1362

An act to amend Section 12028.5 of the Penal Code, relating to weapons.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 12028.5 of the Penal Code is amended to read:

12028.5. (a) As used in this section, the following words have the following meanings:

(1) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself, herself, or another.

(2) "Domestic violence" is abuse perpetrated against a family or household member.

(3) "Family or household member" means a spouse, former spouse, parent, child, any other person related by consanguinity or affinity within the second degree, or any other person who regularly

resides in the household, or who, within the last six months, regularly resided in the household.

(b) A sheriff, undersheriff, deputy sheriff, marshal, deputy marshal, or police officer of a city, as defined in subdivision (a) of Section 830.1, a member of the University of California Police Department, as defined in subdivision (d) of Section 830.2, and a member of a California State University Police Department, as defined in subdivision (e) of Section 830.2, who is at the scene of a domestic violence incident involving a threat to human life or a physical assault, may take temporary custody of any firearm described in Section 12001 in plain sight or discovered pursuant to a consensual search as necessary for the protection of the peace officer or other persons present. Upon taking custody of a firearm, the officer shall give the owner or person who possessed the firearm a receipt. The receipt shall describe the firearm and list any identification or serial number on the firearm. The receipt shall indicate where the firearm can be recovered and the date after which the owner or possessor can recover the firearm. No firearm shall be held less than 48 hours. If a firearm is not retained for use as evidence related to criminal charges brought as a result of the domestic violence incident or is not retained because it was illegally possessed, the firearm shall be made available to the owner or person who was in lawful possession 48 hours after the seizure or as soon thereafter as possible, but no later than 72 hours after the seizure. In any civil action or proceeding for the return of firearms or ammunition seized by any state or local law enforcement agency and not returned within 72 hours, the court shall allow reasonable attorney's fees, not to exceed one thousand dollars ($1,000), to the prevailing party.

(c) Any firearm which has been taken into custody which has been stolen shall be restored to the lawful owner, as soon as its use for evidence has been served, upon his or her identification of the firearm and proof of ownership.

(d) Any firearm taken into custody and held by a police, university police, or sheriff's department, or by a marshal's office, for longer than 12 months and not recovered by the owner or person who has lawful possession at the time it was taken into custody, shall be considered a nuisance and sold or destroyed as provided in subdivision (c) of Section 12028.

SEC. 2. Section 12028.5 of the Penal Code is amended to read:

12028.5. (a) As used in this section, the following words have the following meanings:

(1) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself, herself, or another.

(2) "Domestic violence" is abuse perpetrated against a family or household member.

(3) "Family or household member" means a spouse, former

spouse, parent, child, any other person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the last six months, regularly resided in the household.

(b) A sheriff, undersheriff, deputy sheriff, marshal, deputy marshal, or police officer of a city, as defined in subdivision (a) of Section 830.1, a member of the University of California Police Department, as defined in subdivision (d) of Section 830.2, and a member of a California State University Police Department, as defined in subdivision (e) of Section 830.2, who is at the scene of a domestic violence incident involving a threat to human life or a physical assault, may take temporary custody of any firearm in plain sight or discovered pursuant to a consensual search as necessary for the protection of the peace officer or other persons present. Upon taking custody of a firearm, the officer shall give the owner or person who possessed the firearm a receipt. The receipt shall describe the firearm and list any identification or serial number on the firearm. The receipt shall indicate where the firearm can be recovered and the date after which the owner or possessor can recover the firearm. No firearm shall be held less than 48 hours. If a firearm is not retained for use as evidence related to criminal charges brought as a result of the domestic violence incident or is not retained because it was illegally possessed, the firearm shall be made available to the owner or person who was in lawful possession 48 hours after the seizure or as soon thereafter as possible, but no later than 72 hours after the seizure. In any civil action or proceeding for the return of firearms or ammunition seized by any state or local law enforcement agency and not returned within 72 hours, the court shall allow reasonable attorney's fees, not to exceed one thousand dollars ($1,000), to the prevailing party.

(c) Any firearm which has been taken into custody which has been stolen shall be restored to the lawful owner, as soon as its use for evidence has been served, upon his or her identification of the firearm and proof of ownership.

(d) Any firearm taken into custody and held by a police, university police, or sheriff's department or by a marshal's office, for longer than 12 months and not recovered by the owner or person who has lawful possession at the time it was taken into custody, shall be considered a nuisance and sold or destroyed as provided in subdivision (c) of Section 12028.

SEC. 3. Section 2 of this bill incorporates amendments to Section 12028.5 of the Penal Code proposed by both this bill and AB 798. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1988, (2) each bill amends Section 12028.5 of the Penal Code, and (3) this bill is enacted after AB 798, in which case Section 1 of this bill shall not become operative.

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 1363

An act to amend Section 22445 of the Business and Professions Code, and to add Section 19421 of the Revenue and Taxation Code, and to add Section 2128 of the Unemployment Insurance Code, relating to undocumented persons, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 22445 of the Business and Professions Code is amended to read:

22445. A violation of this chapter is a misdemeanor punishable by a fine of not less than one thousand dollars ($1,000) or more than two thousand dollars ($2,000), as to each client with respect to whom a violation occurs, or imprisonment for not more than one year, or by both such fine and imprisonment; provided, that payment of restitution to a client shall take precedence over payment of a fine.

A second or subsequent violation is punishable by imprisonment in state prison.

SEC. 2. Section 19421 is added to the Revenue and Taxation Code, to read:

19421. Any employer or agent of an employer who provides a wage statement or similar document to any undocumented worker or former undocumented worker at that person's request for the purpose of documenting that person's eligibility for legalization pursuant to the federal Immigration Reform and Control Act (Public Law 99-603), shall not be liable for any penalty or criminal or civil violation under this part relative to the undocumented worker or former undocumented worker based on any facts disclosed in the wage statement or similar document so provided.

Nothing in this section shall be construed to limit the liability under any provision of law of any person who engages in the procurement or production of false or fraudulent wage statements or similar documents to any person for purposes of legalization under the federal Immigration Reform and Control Act.

This section does not apply to penalties assessed or criminal actions filed prior to May 1, 1987.

This section does not apply where the Employment Development Department, through independent means, discovers that an

employer has withheld personal income tax and disability insurance contributions from workers' paychecks and has not remitted those moneys to the department.

The immunity from liability pursuant to this section shall apply only to facts disclosed in the wage statement or similar document provided on or after the effective date of this section and only until the date of the termination of the legalization provisions for agricultural and nonagricultural workers of the federal Immigration Reform and Control Act. However, the immunity from liability pursuant to this section shall continue until the cause of action is tolled by the applicable statute of limitations.

SEC. 2. Section 2128 is added to the Unemployment Insurance Code, to read:

2128. Any employer or agent of an employer who provides a wage statement or similar document to any undocumented worker or former undocumented worker at that person's request for the purpose of documenting that person's eligibility for legalization pursuant to the federal Immigration Reform and Control Act (Public Law 99-603), shall not be liable for any penalty or criminal or civil violation under this division relative to any undocumented worker or former undocumented worker based on any facts disclosed in the wage statement or similar document so provided.

Nothing in this section shall be construed to limit the liability under any provision of law of any person who engages in the procurement or production of false or fraudulent wage statements or similar documents to any person for purposes of legalization under the federal Immigration Reform and Control Act.

This section does not apply to penalties assessed or criminal actions filed prior to May 1, 1987.

This section does not apply where the Employment Development Department, through independent means, discovers that an employer has withheld personal income tax and disability insurance contributions from workers' paychecks and has not remitted those moneys to the department.

The immunity from liability pursuant to this section shall apply only to facts disclosed in the wage statement or similar document provided commencing on or after the effective date of this section and only until the date of the termination of the legalization provisions for agricultural and nonagricultural workers of the federal Immigration Reform and Control Act. However, the immunity from liability pursuant to this section shall continue until the cause of action is tolled by the applicable statute of limitations.

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 alleviate serious problems encountered by undocumented immigrants in establishing their eligibility for legalization under the federal Immigration Reform and Control Act, it is necessary for this act to take effect immediately.

CHAPTER 1364

An act to amend Sections 15611, 15612, 15614, 15615, 15621, 15622, 15623, 15624, 15625, 15627, 15632, 15634, 15636, 15637, 15652, 15672, 15674, 15701, and 15712 of, and to add Sections 15618 and 15638 to, the Corporations Code, and to amend Section 12214 of the Government Code, relating to limited partnerships.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987]

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

SECTION 1. Section 15611 of the Corporations Code is amended to read:

15611. As used in this chapter, unless the context otherwise requires:

(a) "Acknowledged" means that an instrument is either of the following:

(1) Formally acknowledged as provided in Article 3 (commencing with Section 1180) of Chapter 4 of Title 4 of Part 4 of Division 2 of the Civil Code.

(2) Executed to include substantially the following wording preceding the signature: It is hereby declared that I am the person who executed this instrument, which execution is my act and deed.

Any certificate of acknowledgment taken without this state before a notary public or a judge or clerk of a court of record having an official seal need not be further authenticated.

(b) "Capital account" of a partner, unless otherwise provided in the partnership agreement, means the amount of the capital interest of that partner in the partnership consisting of that partner's original contribution, as (1) increased by any additional contributions and by that partner's share of the partnership's profits and (2) decreased by any distribution to that partner and by that partner's share of the partnership's losses.

(c) "Certificate of limited partnership" or "certificate" means the certificate referred to in Section 15621, including all amendments thereto.

(d) "Contribution" means any money, property or services rendered, or a promissory note or other binding obligation to contribute money or property, or to render services as permitted in this chapter, which a partner contributes to a limited partnership as capital in that partner's capacity as a partner pursuant to an agreement between the partners, including an agreement as to value.

(e) "Distribution" means the transfer of money or property by a

partnership to its partners without consideration.

(f) "Foreign limited partnership" means a partnership formed under the laws of any state other than this state or under the laws of a foreign country and having as partners one or more general partners and one or more limited partners (or their equivalents under any name).

(g) "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement or a person who has been admitted as a general partner pursuant to Section 15641.

(h) "Interests of limited partners" means the aggregate interests of all limited partners in their respective capacities as limited partners in the current profits derived from business operations of the partnership.

(i) "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement, or an assignee of a limited partnership interest who has become a limited partner pursuant to Section 15674, or, to the extent provided in subdivision (b) of Section 15662, a former general partner who has ceased to be a general partner.

(j) "Limited partnership" or "domestic limited partnership" means a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

(k) "Mail," unless otherwise provided in the partnership agreement, means first-class mail, postage prepaid, unless registered mail is specified. Registered mail includes certified mail.

(*l*) "Majority-in-interest of the limited partners," unless otherwise provided in the partnership agreement, means more than 50 percent of the interests of limited partners.

(m) "Partner" means a limited or general partner. "Partner of record" means a partner named as a partner on the list maintained in accordance with subdivision (a) of Section 15615.

(n) "Partnership agreement" means any valid agreement of the partners as to the affairs of a limited partnership and the conduct of its business, including all amendments thereto.

(o) "Person" means an individual, partnership, limited partnership (domestic or foreign), trust, estate, association, corporation, or other entity.

(p) "Proxy" means a written authorization signed by a partner or the partner's attorney-in-fact giving another person the power to vote with respect to the interest of that partner. "Signed," for the purpose of this section, means the placing of the partner's name on the proxy (whether by manual signature, typewriting, telegraphic transmission, or otherwise) by the partner or partner's attorney-in-fact.

(q) "Return of capital," unless otherwise provided in the partnership agreement, means any distribution to a partner to the extent that the partner's capital account, immediately after the

distribution, is less than the amount of that partner's contributions to the partnership as reduced by prior distributions which were a return of capital.

(r) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(s) "Time a notice is given or sent," unless otherwise expressly provided, means the time a written notice to a partner or the limited partnership is deposited in the United States mails; or the time any other written notice is personally delivered to the recipient or is delivered to a common carrier for transmission, or actually transmitted by the person giving the notice by electronic means, to the recipient; or the time any oral notice is communicated, in person or by telephone or wireless, to the recipient or to a person at the office of the recipient who the person giving the notice has reason to believe will promptly communicate it to the recipient.

(t) (1) "Transact intrastate business" means entering into repeated and successive transactions of business in this state, other than interstate or foreign commerce.

(2) A foreign limited partnership shall not be considered to be transacting intrastate business merely because it is a limited partner of a foreign limited partnership transacting intrastate business or because it is a limited partner of a domestic limited partnership.

(3) Without excluding other activities which may not constitute transacting intrastate business, a foreign limited partnership shall not be considered to be transacting intrastate business within the meaning of paragraph (1) solely by reason of carrying on in this state any one or more of the following activities:

(A) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims and disputes.

(B) Holding meetings of its partners or carrying on other activities concerning its internal affairs.

(C) Maintaining bank accounts.

(D) Maintaining offices or agencies for the transfer, exchange, and registration of its securities or depositaries with relation to its securities.

(E) Effecting sales through independent contractors.

(F) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where such orders require acceptance without this state before becoming binding contracts.

(G) Creating evidences of debt or mortgages, liens, or security interests on, real or personal property.

(H) Conducting an isolated transaction completed within a period of 180 days and not in the course of a number of repeated transactions of like nature.

SEC. 2. Section 15612 of the Corporations Code is amended to read:

15612. The name of each limited partnership as set forth in its

certificate of limited partnership:

(a) Shall contain the words "limited partnership" or the abbreviation "L.P." at the end of its name.

(b) May not contain the name of a limited partner unless (1) it is also the name of a general partner, or (2) the business of the limited partnership had been carried on under a name in which the limited partner's name appeared before the admission of that limited partner.

(c) May not be a name which the Secretary of State determines is likely to mislead the public and may not be the same as, or resemble so closely as to tend to deceive (1) a name which is under reservation for another limited partnership pursuant to Section 15613 or (2) the name of any limited partnership which has previously filed a certificate pursuant to Section 15621 or of a foreign limited partnership registered pursuant to Section 15692, except that a limited partnership may adopt a name that is substantially the same as that of an existing domestic limited partnership or foreign limited partnership which is registered pursuant to Section 15692, upon proof of consent by such domestic limited partnership or foreign limited partnership and a finding by the Secretary of State that under the circumstances the public is not likely to be misled.

(d) May not contain the words "bank," "insurance," "trust," "trustee," "incorporated," "inc.," "corporation," or "corp.".

(e) The use by a limited partnership or a foreign limited partnership of a name in violation of this section may be enjoined notwithstanding the filing of its certificate of limited partnership or its registration with the Secretary of State.

SEC. 3. Section 15614 of the Corporations Code is amended to read:

15614. Each limited partnership shall continuously maintain in this state each of the following:

(a) An office at which shall be kept the records required by Section 15615 to be maintained.

(b) An agent in this state for service of process on the limited partnership.

SEC. 3.5. Section 15615 of the Corporations Code is amended to read:

15615. Each limited partnership shall keep at the office referred to in subdivision (a) of Section 15614 all of the following:

(a) A current list of the full name and last known business or residence address of each partner set forth in alphabetical order together with the contribution and the share in profits and losses of each partner.

(b) A copy of the certificate of limited partnership and all certificates of amendment thereto, together with executed copies of any powers of attorney pursuant to which any certificate has been executed.

(c) Copies of the limited partnership's federal, state, and local income tax or information returns and reports, if any, for the six most

recent taxable years.

(d) Copies of the original partnership agreement and all amendments thereto.

(e) Financial statements of the limited partnership for the six most recent fiscal years.

(f) The partnership's books and records as they relate to the internal affairs of the partnership for at least the current and past three fiscal years.

SEC. 4. Section 15618 is added to the Corporations Code, to read:

15618. The effect of the provisions of this chapter may be varied as among the partners by the partnership agreement, except to the extent expressly provided to the contrary in this chapter and except that Sections 15642, 15694, 15701, and 15702, Article 2 (commencing with Section 15621), and Article 8 (commencing with Section 15681) may be varied by the partnership agreement only to the extent expressly provided in those sections. The presence in certain provisions of this chapter of the words "unless otherwise provided in the partnership agreement" or words of similar import does not imply that the effect of other provisions may not be varied as among the partners by agreement under this section.

SEC. 5. Section 15621 of the Corporations Code is amended to read:

15621. (a) In order to form a limited partnership the general partners shall execute, acknowledge, and file a certificate of limited partnership and, either before or after the filing of a certificate, the partners shall have entered into a partnership agreement. The certificate shall be filed in the office of, and on a form prescribed by, the Secretary of State and shall set forth all of the following:

(1) The name of the limited partnership.

(2) The street address of the principal executive office.

(3) The names and addresses of the general partners.

(4) The name and address of the agent for service of process required to be maintained by Section 15614, unless a corporate agent is designated, in which case only the name of the agent shall be set forth.

(5) Any other matters the person filing the certificate determines to include.

(b) A limited partnership is formed at the time of the filing of the certificate of limited partnership in the office of the Secretary of State. There shall be no requirement that any partner have a preexisting relationship with any other partner in order to form a limited partnership.

(c) For all purposes, a copy of the certificate of limited partnership duly certified by the Secretary of State is conclusive evidence of the formation of a limited partnership and prima facie evidence of its existence.

(d) A limited partnership may record in the office of the county recorder of any county in this state a certified copy of the certificate of limited partnership, or any amendment thereto, which has been

filed in the office of the Secretary of State. A foreign limited partnership may record in the office of the county recorder of any county in the state a certified copy of the application for registration, together with the certificate of registration, referred to in Section 15692, or any amendment thereto, which has been filed in the office of the Secretary of State. The recording shall create a conclusive presumption in favor of any bona fide purchaser or encumbrancer for value of the partnership real property located in the county in which the certified copy has been recorded, that the persons named as general partners therein are the general partners of the partnership named and that they are all of the general partners of the partnership, and the recording shall also create such other presumptions as provided in Section 15010.5.

(e) The Secretary of State may cancel the filing of certificates of limited partnership if a check or other remittance accepted in payment of the filing fee is not paid upon presentation. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier's check or equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. The second notice shall be given 20 days or more after the first notice and 90 days or less after the original filing.

SEC. 6. Section 15622 of the Corporations Code is amended to read:

15622. (a) A certificate of limited partnership is amended by filing a certificate of amendment thereto executed and acknowledged by all general partners (unless a lesser number is provided in the certificate of limited partnership) and by each general partner designated in the certificate of amendment as a new partner, unless filed by any other partner pursuant to Section 15625. The certificate of amendment shall be filed in the office of, and on a form prescribed by, the Secretary of State. The certificate of amendment shall set forth all of the following:

(1) The name and the Secretary of State's file number of the limited partnership.

(2) The text of the amendment to the certificate.

(b) The general partners shall cause to be filed, within 30 days after the happening of any of the following events, an amendment to a certificate of limited partnership reflecting the occurrence of any of the following events:

(1) A change in name of the limited partnership.

(2) A change in the street address of the principal executive office.

(3) A change in the address of a general partner or a change in the address of the agent for service of process, unless a corporate agent is designated, or appointment of a new agent for service of

process.

(4) The admission of a general partner and that partner's address or the cessation of a general partner to be a general partner.

(5) The discovery by any of the general partners of any false or erroneous material statement contained in the certificate or any amendment thereto.

(c) A certificate of limited partnership may also be amended at any time in any other respect that the general partners determine.

(d) Any general partner, or any limited partner executing a certificate pursuant to Section 15633, shall be liable for any statement materially inconsistent with the partnership agreement or any material misstatement of fact contained in the certificate if the partner knew or should have known that the statement was false when made and an amendment required by subdivision (b) was not filed, and the person suffering the loss relied on the statement or misstatement. A limited partner executing and filing a certificate shall send a copy of the certificate so filed to each general partner at the general partner's last known address. Any general partner shall be liable for any statement materially inconsistent with the partnership agreement or any material misstatement of fact contained in the certificate if the general partner knew or should have known that the statement became false and an amendment required by subdivision (b) was not filed, and the person suffering the loss relied on the statement or misstatement.

(e) Except as otherwise provided in Section 15642, no person has any liability because an amendment to a certificate of limited partnership has not been filed to reflect the occurrence of any event referred to in subdivision (b) if the amendment is filed within the time specified in subdivision (b).

(f) Except as provided in subdivision (d), no limited partner shall incur any liability for any misstatement contained in the certificate or for the failure to file an amendment to a certificate of limited partnership pursuant to subdivision (b).

SEC. 7. Section 15623 of the Corporations Code is amended to read:

15623. (a) (1) The general partners shall cause to be filed in the office of, and on a form prescribed by, the Secretary of State, a certificate of dissolution upon the dissolution of the limited partnership pursuant to Article 8 (commencing with Section 15681), unless the event causing the dissolution is that specified in subdivision (c) of Section 15681, in which case the partners conducting the winding up of the partnership affairs under Section 15683 shall have the obligation to file the certificate of dissolution.

(2) The certificate of dissolution shall set forth all of the following:

(A) The name of the limited partnership and the Secretary of State's file number.

(B) The event causing, and the date of, the dissolution.

(C) Any other information the partners filing the certificate of dissolution determine to include.

(b) (1) The general partners shall cause to be filed in the office of, and on a form prescribed by, the Secretary of State, a certificate of cancellation of certificate of limited partnership upon the completion of the winding up of the affairs of the limited partnership, pursuant to Article 8 (commencing with Section 15681), unless the event causing the dissolution is that specified in subdivision (c) of Section 15681, in which case the partners conducting the winding up of the partnership affairs under Section 15683 shall have the obligation to file the certificate of cancellation of certificate of limited partnership.

(2) The certificate of cancellation of certificate of limited partnership shall set forth all of the following:

(A) The name of the limited partnership and the Secretary of State's file number.

(B) Any other information the partners filing the certificate of cancellation of certificate of limited partnership determine to include.

(c) (1) Notwithstanding the filing of a certificate of dissolution, the general partners may cause to be filed, in the office of, and on a form prescribed by, the Secretary of State, a certificate of continuation, in any of the following circumstances:

(A) The business of the partnership is to be continued pursuant to the written consent of all partners.

(B) The dissolution of the partnership was by written consent of the partners pursuant to subdivision (b) of Section 15681 and each partner who consented to the dissolution has agreed in writing to revoke the partner's consent to the dissolution.

(C) The partnership was not, in fact, dissolved.

The form prescribed by the Secretary of State may be a separate form or may be part of the certificate of amendment.

(2) The certificate of continuation shall set forth all of the following:

(A) The name of the limited partnership and the Secretary of State's file number.

(B) The grounds provided by paragraph (1) that are the basis for filing the certificate of continuation.

(3) Upon the filing of a certificate of continuation, the certificate of dissolution shall be of no effect from the time of the filing of the certificate of dissolution except to the extent provided in subdivision (d) of Section 15622.

SEC. 8. Section 15624 of the Corporations Code is amended to read:

15624. (a) Each certificate required by this article to be filed in the office of the Secretary of State shall be executed in the following manner:

(1) A certificate referred to in Section 15621 shall be executed by all general partners, unless filed by a limited partner pursuant to Section 15633.

(2) A certificate of amendment shall be executed by all general

partners (or a lesser number provided in the certificate of limited partnership) and by each general partner designated in the certificate as a new partner, provided that if the amendment states the cessation of a general partner to be a general partner, it need not be signed by that former general partner if it is signed as otherwise required in this paragraph or in Section 15625.

(3) A certificate of dissolution shall be executed by all general partners (or a lesser number provided in the certificate of limited partnership).

(4) A certificate of cancellation of certificate of limited partnership shall be executed by all general partners (or a lesser number provided in the certificate of limited partnership).

(5) A certificate of continuation shall be executed by all general partners (or a lesser number provided in the certificate of limited partnership).

(6) A certificate filed by a limited partner pursuant to Section 15633 shall be signed by the limited partner.

(b) Any person may execute any certificate referred to in this section by an attorney-in-fact.

SEC. 9. Section 15625 of the Corporations Code is amended to read:

15625. If a general partner required by this article to execute or file a certificate of limited partnership fails after demand to do so within a reasonable time or refuses to do so, any other partner, or any person appointed by a court of competent jurisdiction, may prepare, execute, and file with the Secretary of State a certificate of limited partnership. If a general partner required by this article to execute any certificate fails to do so within a reasonable time or refuses to do so, or if there is any dispute concerning the filing of a certificate of amendment, a certificate of continuation, a certificate of dissolution, or a certificate of cancellation of limited partnership, or the failure to file any such certificate, any partner may petition the superior court to direct the execution of the certificate. If the court finds that it is proper for the certificate to be executed and that any person so designated has failed or refused to execute the certificate, or if the court determines that any certificate should be filed, it shall order a party to file a certificate on the appropriate form prescribed by the Secretary of State, as ordered by the court. In any action under this section, if the court finds the failure of the general partner to comply with the requirement to file any certificate to have been without justification, the court may award an amount sufficient to reimburse the partners bringing the action for the reasonable expenses incurred by the partners, including attorneys' fees, in connection with the action or proceeding. Any partner, other than a general partner, or person filing any certificate under this chapter, shall state the statutory authority after the signature on the appropriate certificate.

SEC. 10. Section 15627 of the Corporations Code is amended to read:

15627. (a) In addition to Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure, process may be served upon limited partnerships and foreign limited partnerships as provided in this section.

(b) Personal service of a copy of any process against the limited partnership or the foreign limited partnership by delivery (1) to any individual designated by it as agent or, if a limited partnership, to any general partner or (2) if the designated agent or, if a limited partnership, general partner is a corporation, to any person named in the latest certificate of the corporate agent filed pursuant to Section 1505 at the office of the corporate agent or to any officer of the general partner, shall constitute valid service on the limited partnership or the foreign limited partnership. No change in the address of the agent for service of process or appointment of a new agent for service of process shall be effective (1) for a limited partnership until an amendment to the certificate of limited partnership is filed pursuant to paragraph (3) of subdivision (b) of Section 15622 or (2) for a foreign limited partnership until an amendment to the application for registration is filed pursuant to Section 15695. In the case of a foreign limited partnership that has appointed the Secretary of State as agent for service of process by reason of subdivision (e) of Section 15697, process shall be delivered by hand to the Secretary of State, or to any person employed in the capacity of assistant or deputy, which shall be one copy of the process for each defendant to be served, together with a copy of the court order authorizing the service and the fee therefor. The order shall include and set forth an address to which such process shall be sent by the Secretary of State.

(c) (1) If an agent for service of process has resigned and has not been replaced or if the agent designated cannot with reasonable diligence be found at the address designated for personal delivery of the process, and it is shown by affidavit to the satisfaction of the court that process against a limited partnership or foreign limited partnership cannot be served with reasonable diligence upon the designated agent or, if a foreign limited partnership, upon any general partner by hand in the manner provided in Section 415.10, subdivision (a) of Section 415.20 or subdivision (a) of Section 415.30, of the Code of Civil Procedure, the court may make an order that the service shall be made upon a domestic limited partnership which has filed a certificate pursuant to Section 15621 or upon a registered foreign limited partnership by delivering by hand to the Secretary of State, or to any person employed in the Secretary of State's office in the capacity of assistant or deputy, one copy of the process for each defendant to be served, together with a copy of the order authorizing the service. Service in this manner shall be deemed complete on the 10th day after delivery of the process to the Secretary of State.

(2) Upon receipt of any such copy of process and the fee therefor, the Secretary of State shall give notice of the service of the process to the limited partnership or foreign limited partnership, at its

principal executive office, by forwarding to that office, by registered mail with request for return receipt, the copy of the process.

(3) The Secretary of State shall keep a record of all process served upon the Secretary of State under this chapter and shall record therein the time of service and the Secretary of State's action with reference thereto. A certificate under the Secretary of State's official seal, certifying to the receipt of process, the giving of notice thereof to the limited partnership or foreign limited partnership, and the forwarding of the process pursuant to this section, shall be competent and prima facie evidence of the matters stated therein.

(d) (1) The certificate of a limited partnership and the application for registration of a foreign limited partnership shall designate, as the agent for service of process, an individual residing in this state or a corporation which has complied with Section 1505 and whose capacity to act as an agent has not terminated. If an individual is designated, the statement shall set forth that person's complete business or residence address in this state.

(2) An agent designated for service of process may file with the Secretary of State a signed and acknowledged written statement of resignation as an agent. Thereupon the authority of the agent to act in that capacity shall cease and the Secretary of State forthwith shall give written notice of the filing of the statement of resignation by mail to the limited partnership or foreign limited partnership addressed to its principal executive office.

(3) If an individual who has been designated agent for service of process dies or resigns or no longer resides in the state or if the corporate agent for that purpose, resigns, dissolves, withdraws from the state, forfeits its right to transact intrastate business, has its corporate rights, powers and privileges suspended or ceases to exist, (A) the limited partnership shall promptly file an amendment to the certificate pursuant to paragraph (3) of subdivision (b) of Section 15622 designating a new agent or (B) the foreign limited partnership shall promptly file an amendment to the application for registration pursuant to Section 15695.

(e) In addition to any other discovery rights which may exist, in any case pending in a California court having jurisdiction in which a party seeks records from a partnership formed under this chapter, whether or not the partnership is a party, the court shall have the power to order the production in California of the books and records of the partnership on the terms and conditions that the court deems appropriate.

SEC. 11. Section 15632 of the Corporations Code is amended to read:

15632. (a) Except as provided in subdivision (d), a limited partner is not liable for any obligation of a limited partnership unless named as a general partner in the certificate or, in addition to the exercise of the rights and powers of a limited partner, the limited partner participates in the control of the business. If a limited partner participates in the control of the business without being named as a

general partner, that partner may be held liable as a general partner only to persons who transact business with the limited partnership with actual knowledge of that partner's participation in control and with a reasonable belief that the partner is a general partner at the time of the transaction. Nothing in this chapter shall be construed to affect the liability of a limited partner to third parties for the limited partner's participation in tortious conduct.

(b) A limited partner does not participate in the control of the business within the meaning of subdivision (a) solely by doing one or more of the following:

(1) Being a contractor for or an agent or employee of the limited partnership or of a general partner, or an officer, director, or shareholder of a corporate general partner.

(2) Consulting with and advising a general partner with respect to the business of the limited partnership.

(3) Acting as surety for the limited partnership or guaranteeing one or more specific debts of the limited partnership.

(4) Approving or disapproving an amendment to the partnership agreement.

(5) Voting on or calling a meeting of the partners for one or more of the following matters:

(A) The dissolution and winding up of the limited partnership.

(B) The sale, exchange, lease, mortgage, pledge, or other transfer of all or a substantial part of the assets of the limited partnership other than in the ordinary course of its business.

(C) The incurrence of indebtedness by the limited partnership other than in the ordinary course of its business.

(D) A change in the nature of the business.

(E) Transactions in which the general partners have an actual or potential conflict of interest with the limited partners or the partnership.

(F) The removal of a general partner.

(G) An election to continue the business of the limited partnership other than under the circumstances described in subparagraph (I) or (J).

(H) The admission of a general partner other than under the circumstances described in subparagraph (I) or (J).

(I) The admission of a general partner or an election to continue the business of the limited partnership after a general partner ceases to be a general partner other than by removal where there is no remaining or surviving general partner.

(J) The admission of a general partner or an election to continue the business of the limited partnership after the removal of a general partner where there is no remaining or surviving general partner.

(K) Matters related to the business of the limited partnership not otherwise enumerated in this subdivision, which the partnership agreement states in writing may be subject to the approval or disapproval of limited partners.

(6) Winding up the partnership pursuant to Section 15683.

(7) Executing and filing a certificate pursuant to Section 15625 or a certificate of dissolution pursuant to paragraph (1) of subdivision (a) of Section 15623 or a certificate of cancellation of certificate of limited partnership pursuant to paragraph (1) of subdivision (b) of Section 15623.

(8) Serving on an audit committee or committee performing the functions of an audit committee.

(9) Exercising any right or power permitted to limited partners under this chapter and not specifically enumerated in this subdivision.

(c) The enumeration in subdivision (b) does not mean that any other conduct or the possession or exercise of any other power by a limited partner constitutes participation by the limited partner in the control of the business of the limited partnership.

(d) A limited partner who knowingly permits that partner's name to be used in the name of the limited partnership, except under circumstances permitted by subdivision (b) of Section 15612, is liable for all obligations of the limited partnership to persons who reasonably believed that the person was a general partner at the time of the transaction.

SEC. 12. Section 15634 of the Corporations Code is amended to read:

15634. (a) Upon the request of a limited partner, the general partners shall promptly deliver to the limited partner, at the expense of the partnership, a copy of the information required to be maintained by subdivision (a), (b), or (d) of Section 15615.

(b) Each limited partner has the right upon reasonable request to each of the following:

(1) Inspect and copy during normal business hours any of the partnership records required to be maintained by Section 15615.

(2) Obtain from the general partners, promptly after becoming available, a copy of the limited partnership's federal, state and local income tax or information returns for each year.

(c) In the case of any limited partnership with more than 35 limited partners:

(1) The general partners shall cause an annual report to be sent to each of the partners not later than 120 days after the close of the fiscal year. That report shall contain a balance sheet as of the end of the fiscal year and an income statement and statement of changes in financial position for the fiscal year.

(2) Limited partners representing at least 5 percent of the interests of limited partners may make a written request to a general partner for an income statement of the limited partnership for the initial three-month, six-month, or nine-month period of the current fiscal year ended more than 30 days prior to the date of the request and a balance sheet of the partnership as of the end of that period. The statement shall be delivered or mailed to the limited partners within 30 days thereafter.

(3) The financial statements referred to in this section shall be

accompanied by the report thereon, if any, of the independent accountants engaged by the partnership or, if there is no such report, the certificate of a general partner of the partnership that such financial statements were prepared without audit from the books and records of the limited partnership.

(d) The general partners shall promptly furnish to a limited partner a copy of any amendment to the partnership agreement executed by a general partner pursuant to a power of attorney from the limited partner.

(e) The general partners shall send to each of the partners within 90 days after the end of each taxable year such information as is necessary to complete federal and state income tax or information returns, and, in the case of a limited partnership with 35 or fewer limited partners, a copy of the limited partnership's federal, state, and local income tax or information returns for the year.

(f) In addition to any other remedies, a court of competent jurisdiction may enforce the duty of making and mailing or delivering the information and financial statements required by this section and, for good cause shown, may extend the time therefor.

(g) In any action under this section, if the court finds the failure of the partnership to comply with the requirements of this section to have been without justification, the court may award an amount sufficient to reimburse the partners bringing the action for the reasonable expenses incurred by the partners, including attorneys' fees, in connection with the action or proceeding.

(h) Any waiver by a partner of the rights provided in this section shall be unenforceable.

(i) Any request, inspection, or copying by a limited partner may be made by the limited partner or by the limited partner's agent or attorney.

SEC. 13. Section 15636 of the Corporations Code is amended to read:

15636. The rights and duties of the partners in relation to the limited partnership shall be determined, subject to any provision in the partnership agreement to the contrary, by the following rules:

(a) No limited partner shall be required to make any additional contribution to the limited partnership.

(b) Except for distributions made pursuant to Section 15664, no limited partner shall have a priority over any other limited partner, as to return of contributions or as to compensation as a limited partner by way of income.

(c) The obligation of a partner to make a contribution or return money or property distributed in violation of this chapter may be compromised only by the written consent of all the partners.

(d) No limited partner shall have the right to receive property other than money upon any distribution.

(e) A partner may not be compelled to accept a distribution of any asset in kind from a limited partnership in lieu of a proportionate distribution of money being made to other partners.

(f) The limited partners shall have the right to vote on all matters specified in subparagraphs (A) to (G), inclusive, of paragraph (5) of subdivision (b) of Section 15632 and the actions specified therein may be taken by the general partners only with the affirmative vote of a majority in interest of the limited partners.

The limited partners shall also have the right to vote on matters specified in subparagraphs (H) and (I) of paragraph (5) of subdivision (b) of Section 15632. Notwithstanding any other provision of this chapter or any provision of the partnership agreement to the contrary, the actions specified in subparagraph (H) may only be taken by the affirmative vote of a majority in interest of the limited partners or such greater interest as is provided in the partnership agreement, and the actions specified in that subparagraph (I) may only be taken by the affirmative vote of all of the limited partners.

SEC. 14. Section 15637 of the Corporations Code is amended to read:

15637. (a) Meetings of partners may be held at any place within or without this state selected by the person or persons calling the meeting or as may be stated in or fixed in accordance with the partnership agreement. If no other place is stated or so fixed, partners' meetings shall be held at the principal executive office of the partnership.

(b) A meeting of the partners may be called by any of the general partners or by limited partners representing more than 10 percent of the interests of limited partners for any matters on which the limited partners may vote.

(c) (1) Whenever partners are required or permitted to take any action at a meeting, a written notice of the meeting shall be given not less than 10, nor more than 60, days before the date of the meeting to each partner entitled to vote at the meeting. The notice shall state the place, date, and hour of the meeting and the general nature of the business to be transacted, and no other business may be transacted.

(2) Notice of a partners' meeting or any report shall be given either personally or by mail or other means of written communication, addressed to the partner at the address of the partner appearing on the books of the partnership or given by the partner to the partnership for the purpose of notice, or, if no address appears or is given, at the place where the principal executive office of the partnership is located or by publication at least once in a newspaper of general circulation in the county in which the principal executive office is located. The notice or report shall be deemed to have been given at the time when delivered personally or deposited in the mail or sent by other means of written communication. An affidavit of mailing of any notice or report in accordance with the provisions of this article, executed by a general partner, shall be prima facie evidence of the giving of the notice or report.

If any notice or report addressed to the partner at the address of

the partner appearing on the books of the partnership is returned to the partnership by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver the notice or report to the partner at the address, all future notices or reports shall be deemed to have been duly given without further mailing if they are available for the partner at the principal executive office of the partnership for a period of one year from the date of the giving of the notice or report to all other partners.

(3) Upon written request to the general partners by any person entitled to call a meeting of partners, the general partners immediately shall cause notice to be given to the partners entitled to vote that a meeting will be held at a time requested by the person calling the meeting, not less than 10, nor more than 60, days after the receipt of the request. If the notice is not given within 20 days after receipt of the request, the person entitled to call the meeting may give the notice or, upon the application of such person, the superior court of the county in which the principal executive office of the limited partnership is located, or if the principal executive office is not in this state, the county in which the limited partnership's address in this state is located, shall summarily order the giving of the notice, after notice to the partnership giving it an opportunity to be heard. The procedure provided in subdivision (c) of Section 305 of the Corporations Code shall apply to the application. The court may issue any order as may be appropriate, including, without limitation, an order designating the time and place of the meeting, the record date for determination of partners entitled to vote, and the form of notice.

(d) When a partners' meeting is adjourned to another time or place, unless the partnership agreement otherwise requires and, except as provided in this subdivision, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting the partnership may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 45 days or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each partner of record entitled to vote at the meeting.

(e) The transactions of any meeting of partners, however called and noticed, and wherever held, are as valid as though had at a meeting duly held after regular call and notice, if a quorum is present either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote, not present in person or by proxy, signs a written waiver of notice or a consent to the holding of the meeting or an approval of the minutes thereof. All waivers, consents, and approvals shall be filed with the partnership records or made a part of the minutes of the meeting. Attendance of a person at a meeting shall constitute a waiver of notice of the meeting, except when the person objects, at the beginning of the

meeting to the transaction of any business because the meeting is not lawfully called or convened and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by this chapter to be included in the notice but not so included, if the objection is expressly made at the meeting. Neither the business to be transacted at nor the purpose of any meeting of partners need be specified in any written waiver of notice, unless otherwise provided in the partnership agreement, except as provided in subdivision (f).

(f) Any partner approval at a meeting, other than unanimous approval by those entitled to vote, pursuant to paragraph (5) of subdivision (b) of Section 15632 shall be valid only if the general nature of the proposal so approved was stated in the notice of meeting or in any written waiver of notice.

(g) (1) Unless otherwise provided in the partnership agreement, a majority in interest of the limited partners represented in person or by proxy shall constitute a quorum at a meeting of partners.

(2) The partners present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough partners to leave less than a quorum, if any action taken (other than adjournment) is approved by the requisite percentage of interests of limited partners specified in this chapter or in the partnership agreement.

(3) In the absence of a quorum, any meeting of partners may be adjourned from time to time by the vote of a majority of the interests represented either in person or by proxy, but no other business may be transacted, except as provided in paragraph (2).

(h) Unless otherwise provided in the partnership agreement, any action which may be taken at any meeting of the partners may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by partners having not less than the minimum number of votes that would be necessary to authorize or take that action at a meeting at which all entitled to vote thereon were present and voted. In the event the limited partners are requested to consent on a matter without a meeting, each partner shall be given notice of the matter to be voted upon in the same manner as described in subdivision (c). In the event any general partner, or limited partners representing more than 10 percent of the interests of the limited partners, request a meeting for the purpose of discussing or voting on the matter, the notice of a meeting shall be given in accordance with subdivision (c) and no action shall be taken until the meeting is held. Unless delayed in accordance with the provisions of the preceding sentence, any action taken without a meeting will be effective 15 days after the required minimum number of voters have signed the consent, however, the action will be effective immediately if all general partners and limited partners representing at least 90 percent of the interests of the limited partners have signed the consent.

(i) The use of proxies in connection with this section will be governed in the same manner as in the case of corporations formed under the General Corporation Law.

(j) In order that the limited partnership may determine the partners of record entitled to notices of any meeting or to vote, or entitled to receive any distribution or to exercise any rights in respect of any other lawful action, the general partners, or limited partners representing more than 10 percent of the interests of limited partners, may fix, in advance, a record date, which is not more than 60 or less than 10 days prior to the date of the meeting and not more than 60 days prior to any other action. If no record date is fixed:

(1) The record date for determining partners entitled to notice of or to vote at a meeting of partners shall be at the close of business on the business day next preceding the day on which notice is given or, if notice is waived, at the close of business on the business day next preceding the day on which the meeting is held.

(2) The record date for determining partners entitled to give consent to partnership action in writing without a meeting shall be the day on which the first written consent is given.

(3) The record date for determining partners for any other purpose shall be at the close of business on the day on which the general partners adopt it, or the 60th day prior to the date of the other action, whichever is later.

(4) The determination of partners of record entitled to notice of or to vote at a meeting of partners shall apply to any adjournment of the meeting unless the general partners, or the limited partners who called the meeting, fix a new record date for the adjourned meeting, but the general partners, or the limited partners who called the meeting, shall fix a new record date if the meeting is adjourned for more than 45 days from the date set for the original meeting.

SEC. 15. Section 15638 is added to the Corporations Code, to read:

15638. The partnership agreement may provide that the interest of a partner or assignee in a limited partnership may be evidenced by a certificate of interest issued by the limited partnership, may provide for the assignment or transfer of any interest represented by such a certificate and the admission of transferees of certificates as additional or substituted limited partners, and may make other provisions with respect to the form of those certificates not inconsistent with this chapter. A certificate of interest may be, but is not required to be, a security as defined in Section 8102 of the Commercial Code.

SEC. 16. Section 15652 of the Corporations Code is amended to read:

15652. Notwithstanding the compromise of a claim referred to in subdivision (c) of Section 15636, a person whose claim against a limited partnership arises before the receipt of notice of the compromise may enforce the original obligation of a partner to make

a contribution to the partnership or to return a distribution to the partnership if the person had knowledge of the original obligation prior to the time the claim arose and if the compromise occurred after the time the claim arose. Any other person with a claim against a limited partnership may enforce only the existing obligation of a partner to make a contribution to the partnership or to return a distribution to the partnership. A person with a claim against a limited partnership may not enforce a conditional obligation of a limited partner unless the conditions have been satisfied or waived. Conditional obligations include, without limitation, a capital contribution payable upon a discretionary call of the partnership or a general partner prior to the time the call occurs. Nothing in this section shall be construed to affect the rights of third-party creditors of the partnership nor any rights existing under the Uniform Fraudulent Transfer Act (Chapter 1 (commencing with Section 3439) of Title 2 of Part 2 of Division 4 of the Civil Code).

SEC. 17. Section 15672 of the Corporations Code is amended to read:

15672. Except as otherwise provided in the partnership agreement, a limited partnership interest is assignable in whole or in part. An assignment of a limited partnership interest does not dissolve a limited partnership or entitle the assignee to become or to exercise any rights of a partner. An assignment entitles the assignee to receive, to the extent assigned, only the distributions and the allocations of income, gain, loss, deduction, credit, or similar item to which the assignor would be entitled. Except as otherwise provided in the assignment, an assignee of a limited partnership interest in a limited partnership with over 100 limited partners also shall be entitled to all of the rights granted to a limited partner pursuant to Section 15634. A limited partner remains a partner upon assignment of all or part of the limited partner's limited partnership interest, subject to the assignee becoming a limited partner pursuant to subdivision (a) of Section 15674.

SEC. 18. Section 15674 of the Corporations Code is amended to read:

15674. (a) An assignee of a partnership interest, including an assignee of a general partner, may become a limited partner if and to the extent that (1) the partnership agreement so provides or (2) all partners consent.

(b) An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership agreement and this chapter. An assignee who becomes a limited partner also is liable for the obligations of the assignor to make contributions as provided in Article 5 (commencing with Section 15651). However, the assignee is not obligated for liabilities unknown to the assignee at the time the assignee became a limited partner and which could not be ascertained from the partnership agreement.

(c) If an assignee of a limited partnership interest becomes a

limited partner, the assignor is not released from the assignor's liability to the limited partnership under subdivision (d) of Section 15622, and Sections 15652 and 15666.

(d) If the general partner assigns all of the general partner's interest in the partnership to a third party, the limited partners may remove that general partner, unless otherwise provided by the partnership agreement.

SEC. 19. Section 15701 of the Corporations Code is amended to read:

15701. Any limited partner of a foreign or domestic limited partnership may bring a class action on behalf of all or a class of limited partners to enforce any claim common to those limited partners and any such action shall be governed by the law governing class actions generally, provided that in order to maintain the class action there shall be no requirement that the class be so numerous that joinder of all members is impracticable.

SEC. 20. Section 15712 of the Corporations Code is amended to read:

15712. (a) A limited partnership organized under the laws of this state and existing on the effective date:

(1) Shall be governed by the law previously applicable to it unless it elects to be governed by this chapter instead of by the law previously applicable to it. The election shall be made by the written consent of all partners, or of the lesser number provided by the partnership agreement for this election. The election shall be prospective only and shall not affect preexisting rights of third parties.

(2) Shall file a certificate as provided by subdivision (a) of Section 15621, including therein the date that the limited partnership filed or recorded under the law previously applicable to it, and shall thereafter be governed by Article 2 (commencing with Section 15621), and not by the law previously applicable to it relating to filing or recording requirements. When a certificate has been filed pursuant to Article 2 (commencing with Section 15621), the limited partnership shall not be required to make any further filings or record any documents pursuant to the Uniform Limited Partnership Act (Chapter 2 (commencing with Section 15501) of Title 2) and no person may rely on the accuracy or completeness of information filed or recorded pursuant to that act subsequent to the filing by the partnership of a certificate pursuant to subdivision (a) of Section 15621.

(3) Shall not be subject to the requirement of subdivision (a) of Section 15612 or to the limitations of subdivision (c) of Section 15612 if a certificate as required by paragraph (2) of this subdivision is filed prior to July 1, 1985.

(4) May not maintain any action, suit, or proceeding in any court of this state until it has filed a certificate as required by paragraph (2).

(b) To the extent that the provisions of the certificate filed under

the law previously applicable to a limited partnership governed the rights and obligations of the partners and the limited partnership among each other, those provisions shall continue to govern those rights and obligations except (1) as they may subsequently be affected by amendments to the partnership agreement or by the terms of a certificate filed pursuant to paragraph (6) of subdivision (a) of Section 15621 or by the terms of a certificate of amendment filed pursuant to subdivision (c) of Section 15622, and (2) for the effect upon those rights and obligations of an election to be governed by this chapter pursuant to this section.

(c) The Secretary of State may adopt new forms of certificates, continue to use previously adopted forms, or both, for filings required pursuant to Article 2 (commencing with Section 15621), provided the certificate to be filed contains the information required to be included in such a certificate by that article. No partnership that has filed a certificate pursuant to Article 2 (commencing with Section 15621) shall be required to refile, to amend, or to take any other action with respect to any certificate unless an act amending this chapter expressly so requires.

SEC. 21. Section 12214 of the Government Code is amended to read:

12214. The fee for filing an amendment to the certificate of limited partnership or to the application for registration of a foreign limited partnership is fifteen dollars ($15). The fee for filing a certificate of continuation for a domestic limited partnership after a certificate of dissolution has been filed is fifteen dollars ($15). There is no fee for filing a certificate of dissolution or certificate of cancellation by a limited partnership, either domestic or foreign.

CHAPTER 1365

An act to amend Section 7507.9 of, to repeal Sections 6980.14 and 6980.16 of, and to repeal and add Section 6980.12 to, the Business and Professions Code, relating to consumer affairs.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987]

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

SECTION 1. Section 6980.12 of the Business and Professions Code is repealed.

SEC. 2. Section 6980.12 is added to the Business and Professions Code, to read:

6980.12. (a) This chapter applies only to locksmiths working for hire.

(b) This chapter does not apply to the following persons:

(1) Any person, or his or her agent or employee, who is the

manufacturer of a product, other than locks and keys, and who installs, repairs, opens, or modifies locks or who makes keys for the locks of that product as a normal incident to its marketing.

(2) Key duplicators.

(3) Employees who are industrial or institutional locksmiths and whose services are provided only to an employer who does not provide locksmith services for hire to the public.

(4) Any person registered with the bureau pursuant to Chapter 11 (commencing with Section 7500), Chapter 11.5 (commencing with Section 7512), or Chapter 11.6 (commencing with Section 7590), if the duties of that person's position which constitute locksmithing are ancillary to the primary duties and functions of that person's position.

SEC. 3. Section 6980.14 of the Business and Professions Code is repealed.

SEC. 4. Section 6980.16 of the Business and Professions Code is repealed.

SEC. 5. Section 7507.9 of the Business and Professions Code is amended to read:

7507.9. If personal effects or other personal property, not covered by a security agreement, are contained in or on personal property at the time it is recovered, the effects shall be removed from the vehicle, a complete and accurate inventory shall be made, and the personal effects shall be stored in a labeled container by the licensee for a minimum of 60 days in a secure manner, except those personal effects removed by or in the presence of the registered owner at the time the personal property was being repossessed.

(a) The date and time the inventory is made shall be indicated and shall be signed by the repossession agency employee who performs the inventory.

(b) The following items of personal effects are items determined to present a danger or health hazard when recovered by the licensee and shall be disposed of in the following manner:

(1) Deadly weapons and dangerous drugs shall be turned over to a local law enforcement agency for retention. These items shall be entered on the inventory and a notation shall be made as to the date and the time and the place the deadly weapon or dangerous drug was turned over to the law enforcement agency, and a receipt from the law enforcement agency shall be maintained in the records of the repossession agency.

(2) Combustibles shall be inventoried and noted as "disposed of, dangerous combustible," and the item shall be disposed of in a reasonable and safe manner.

(3) Food and other health hazard items shall be inventoried and noted as "disposed of, health hazard," and disposed of in a reasonable and safe manner.

(c) Personal effects may be disposed of after being held for at least 60 days. The inventory, and adequate information as to how, when, and to whom the personal effects were disposed of, shall be filed in the permanent records of the licensee.

(d) The inventory shall include the name, address, business hours, and phone number of the person at the repossession agency to contact for recovering the personal effects and an itemization of all personal effect storage charges that will be made by the repossession agency. The inventory shall also include the following statement: "Please be advised that the property listed on this inventory will be disposed of by the repossession agency after being held for 60 days from the date of this notice IF UNCLAIMED."

(e) The inventory shall be provided to a consumer not later than 48 hours after the recovery of personal property, except that if:

(1) The 48-hour period encompasses a Saturday, Sunday, or postal holiday, the inventory shall be provided no later than 72 hours after the recovery of personal property.

(2) Inventory resulting from repossession of a yacht, motor home, or travel trailer is such that it shall take at least eight hours to inventory, then the inventory shall be provided no later than 96 hours after the recovery of personal property. When the 96-hour period encompasses a Saturday, Sunday, or postal holiday, the inventory shall be provided no later than 120 hours after the recovery of personal property.

(f) The notice may be given by regular mail addressed to the last known address of the consumer or by personal service at the option of the repossession agency.

CHAPTER 1366

An act relating to water resources.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987]

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

SECTION 1. (a) The Department of Water Resources shall conduct a study to assess the economic and environmental impacts of (1) the removal of O'Shaughnessy Dam on the Tuolumne River or (2) the modification of operational measures for Hetch Hetchy Reservoir to determine potential water quality benefits of increasing fresh water flows to the Sacramento-San Joaquin Delta and San Francisco Bay. The study shall include an assessment of the use of water from New Don Pedro Reservoir, Lake Lloyd, Lake Eleanor, or other sources to replace reductions in water supply as a result of the removal of O'Shaughnessy Dam or any modification in its operations which reduces the firm yield of Hetch Hetchy Reservoir.

(b) The department shall cooperate and consult with appropriate federal, state, and local agencies in conjunction with the study.

(c) The department shall report its findings to the Governor and the Legislature not later than December 31, 1989.

CHAPTER 1367

An act to amend Sections 653f and 1000 of the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 653f of the Penal Code is amended to read:

653f. (a) Every person who, with the intent that the crime be committed, solicits another to offer or accept or join in the offer or acceptance of a bribe, or to commit or join in the commission of robbery, burglary, grand theft, receiving stolen property, extortion, perjury, subornation of perjury, forgery, kidnapping, arson or assault with a deadly weapon or instrument or by means of force likely to produce great bodily injury, or, by the use of force or a threat of force, to prevent or dissuade any person who is or may become a witness from attending upon, or testifying at, any trial, proceeding, or inquiry authorized by law, is punishable by imprisonment in the county jail not more than one year or in the state prison, or by fine of not more than ten thousand dollars ($10,000), or the amount which could have been assessed for commission of the offense itself, whichever is greater, or by both such fine and imprisonment.

(b) Every person who, with the intent that the crime be committed, solicits another to commit or join in the commission of murder is punishable by imprisonment in the state prison for two, four, or six years.

(c) Every person who, with the intent that the crime be committed, solicits another to commit rape by force or violence, sodomy by force or violence, oral copulation by force or violence, or any violation of Section 264.1, 288, or 289, is punishable by imprisonment in a state prison for two, three or four years.

(d) Every person who, with the intent that the crime be committed, solicits another to commit an offense specified in Section 11352, 11379, 11379.5, 11379.6, or 11391 of the Health and Safety Code shall be punished by imprisonment in the county jail for a period not exceeding six months. Every person, who, having been convicted of soliciting another to commit an offense specified in this subdivision, is subsequently convicted of the proscribed solicitation, then the person convicted of the subsequent offense is punishable by imprisonment in the county jail not exceeding one year, or in the state prison.

This subdivision does not apply where the term of imprisonment imposed under other provisions of law would result in a longer term of imprisonment.

(e) An offense charged in violation of subdivision (a), (b), or (c)

shall be proven by the testimony of two witnesses, or of one witness and corroborating circumstances. An offense charged in violation of subdivision (d) shall be proven by the testimony of one witness and corroborating circumstances.

SEC. 2. Section 653f of the Penal Code is amended to read:

653f. (a) Every person who, with the intent that the crime be committed, solicits another to offer or accept or join in the offer or acceptance of a bribe, or to commit or join in the commission of robbery, burglary, grand theft, receiving stolen property, extortion, perjury, subornation of perjury, forgery, kidnapping, arson or assault with a deadly weapon or instrument or by means of force likely to produce great bodily injury, or, by the use of force or a threat of force, to prevent or dissuade any person who is or may become a witness from attending upon, or testifying at, any trial, proceeding, or inquiry authorized by law, is punishable by imprisonment in the county jail not more than one year or in the state prison, or by fine of not more than ten thousand dollars ($10,000), or the amount which could have been assessed for commission of the offense itself, whichever is greater, or by both such fine and imprisonment.

(b) Every person who, with the intent that the crime be committed, solicits another to commit or join in the commission of murder is punishable by imprisonment in the state prison for three, six, or nine years.

(c) Every person who, with the intent that the crime be committed, solicits another to commit rape by force or violence, sodomy by force or violence, oral copulation by force or violence, or any violation of Section 264.1, 288, or 289, is punishable by imprisonment in a state prison for two, three or four years.

(d) Every person who, with the intent that the crime be committed, solicits another to commit an offense specified in Section 11352, 11379, 11379.5, 11379.6, or 11391 of the Health and Safety Code shall be punished by imprisonment in the county jail for a period not exceeding six months. Every person, who, having been convicted of soliciting another to commit an offense specified in this subdivision, is subsequently convicted of the proscribed solicitation, then the person convicted of the subsequent offense is punishable by imprisonment in the county jail not exceeding one year, or in the state prison.

This subdivision does not apply where the term of imprisonment imposed under other provisions of law would result in a longer term of imprisonment.

(e) An offense charged in violation of subdivision (a), (b) or (c) shall be proven by the testimony of two witnesses, or of one witness and corroborating circumstances. An offense charged in violation of subdivision (d) shall be proven by the testimony of one witness and corroborating circumstances.

SEC. 3. Section 1000 of the Penal Code is amended to read:

1000. (a) This chapter shall apply whenever a case is before any court upon an accusatory pleading for violation of Section 11350,

11357, 11364, 11365, 11377, or 11550 of the Health and Safety Code, or Section 11358 of the Health and Safety Code if the marijuana planted, cultivated, harvested, dried, or processed is for personal use, or Section 11368 of the Health and Safety Code if the narcotic drug was secured by a fictitious prescription and is for the personal use of the defendant and was not sold or furnished to another, or subdivision (d) of Section 653f if the solicitation was for acts directed to personal use only, or Section 381 or subdivision (f) of Section 647 of the Penal Code, if for being under the influence of a controlled substance, or Section 4230 of the Business and Professions Code, and it appears to the district attorney that, except as provided in subdivision (b) of Section 11357 of the Health and Safety Code, all of the following apply to the defendant:

(1) The defendant has no conviction for any offense involving controlled substances prior to the alleged commission of the charged divertible offense.

(2) The offense charged did not involve a crime of violence or threatened violence.

(3) There is no evidence of a violation relating to narcotics or restricted dangerous drugs other than a violation of the sections listed in this subdivision.

(4) The defendant's record does not indicate that probation or parole has ever been revoked without thereafter being completed.

(5) The defendant's record does not indicate that he or she has been diverted pursuant to this chapter within five years prior to the alleged commission of the charged divertible offense.

(6) The defendant has no prior felony conviction within five years prior to the alleged commission of the charged divertible offense.

(b) The district attorney shall review his or her file to determine whether or not paragraphs (1) to (6), inclusive, of subdivision (a) are applicable to the defendant. If the defendant is found ineligible, the district attorney shall file with the court a declaration in writing or state for the record the grounds upon which the determination is based, and shall make this information available to the defendant and his or her attorney.

(c) Successful completion of diversion for a violation of Section 11368 of the Health and Safety Code shall not prohibit any administrative agency from taking disciplinary action against a licensee or from denying a license. Nothing in this subdivision shall be construed to expand or restrict the provisions of Section 1000.5.

SEC. 4. Section 2 of this bill incorporates amendments to Section 653f of the Penal Code proposed by both this bill and SB 736. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1988, (2) each bill amends Section 653f of the Penal Code, and (3) this bill is enacted after SB 736, 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.

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 act shall achieve maximum implementation, it is necessary that it take effect at the earliest date possible.

CHAPTER 1368

An act to amend Section 2083 of, and to add Section 2107 to, the Business and Professions Code, relating to physicians and surgeons.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987]

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

SECTION 1. Section 2083 of the Business and Professions Code is amended to read:

2083. Each application for a certificate shall be accompanied by the fee required by this chapter and shall be filed with the Division of Licensing.

SEC. 2. Section 2107 is added to the Business and Professions Code, to read:

2107. (a) The Legislature intends that the Division of Licensing shall have the authority to substitute postgraduate education and training to remedy deficiencies in an applicant's medical school education and training. The Legislature further intends that applicants who graduated from medical school prior to January 1, 1986, and who substantially completed their clinical training shall be granted that substitute credit if their postgraduate education took place in an accredited program.

(b) To meet the requirements for licensure set forth in Sections 2089 and 2089.5, the Division of Licensing may require an applicant under this article to successfully complete additional education and training. In determining the content and duration of the required additional education and training, the division shall consider the applicant's medical education and performance on standardized national examinations, and may substitute up to 36 weeks of approved postgraduate training in lieu of specified undergraduate requirements. Postgraduate training substituted for undergraduate training shall be in addition to the year of postgraduate training required by Sections 2101, 2102, and 2103.

(c) In addition, the division shall accept certified postgraduate training in a program approved by the American Accreditation

Committee for Graduate Medical Education or the Coordinating Council of Medical Education of Canada in lieu of undergraduate work in the same subject for any applicant who meets the following:

(1) Graduated from medical school prior to January 1, 1986.

(2) Successfully completed at least 60 weeks of clinical instruction while in medical school.

(3) Completed clinical instruction which does not meet, in whole or in part, the requirements of Section 2089.5.

Certification of this training shall be made by the program's Director of Medical Education, and shall state that the applicant has satisfactorily completed postgraduate training in the subject areas for which the applicant seeks undergraduate credit and for a duration required by Section 2089.5. Postgraduate training substituted for undergraduate training shall be required by Sections 2101, 2102, and 2103.

CHAPTER 1369

An act to amend Section 113 of, and to add Division 17 (commencing with Section 23000) to, the Health and Safety Code, relating to tires, and making an appropriation therefor.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987]

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, 527, 1616, 1676, 1677, 4042, 4042.2, 4042.3, 11887, 23013, 25198.7, 25694, 25696, 25697, 25816, 25817, 26506.2, 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. 1.5. 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, 527, 1616, 1676, 1677, 4042, 4042.2, 4042.3, 4083, 11887, 23013, 25198.7, 25694, 25696, 25697, 25816, 25817, 26506.2, 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. Division 17 (commencing with Section 23000) is added to the Health and Safety Code, to read:

DIVISION 17. IMPORTATION OF TIRES

CHAPTER 1. GENERAL PROVISIONS

23000. The Legislature finds and declares that used tires imported into this country have contained mosquitos which are carriers of disease that is harmful to humans.

The Legislature further finds and declares that, in order to attempt to ensure that these mosquitos are not brought into this state, it is necessary to require that used tires not be imported into this state unless they have been certified as being free of mosquitos.

23002. As used in this division, "department" means the State Department of Health Services.

CHAPTER 2. IMPORTATION REQUIREMENTS

23010. (a) No used tires which have been imported into the United States shall be imported into this state, for purposes of sale, resale or disposal, unless they are inspected and certified as free from mosquitos in any stage of development by the department or its designee. Nothing in this section is intended to require inspection of each tire entering the state. The inspection shall be conducted using standard sampling procedures.

(b) Notwithstanding subdivision (a), if a shipment of tires imported into the United States has been inspected in a state other than California and certified as free from mosquitos in any state of development by persons meeting the federal certified pesticide applicator qualifications contained in 7 U.S.C. Section 136b, then the department shall review the certification to determine whether or not it is adequate. For the purposes of this subdivision, "adequate" means that the department shall confirm that the certification was performed by persons meeting the qualifications referred to in this subdivision and that the certification applies to the shipment of tires imported into this state.

If the certification is determined by the department to be adequate, the department shall make a written finding to that effect, and the inspection referred to in subdivision (a) shall not be required. The department may charge and collect a reasonable fee, not to exceed fifty dollars ($50) per shipment, to cover its costs incurred pursuant to this subdivision.

If the certification is determined by the department to be inadequate, the inspection referred to in subdivision (a) shall be required.

23011. The department shall administer this division. In carrying out this duty, the department may delegate its authority to other departments of the state or to local governmental agencies, or cooperate with other such agencies in the enforcement of this division.

Notwithstanding Section 2426, the department may enter into a contract for services with local agencies, in order to implement this division.

23012. The department shall charge and collect a fee for each certificate issued by the department or its designee, which shall be in an amount reasonably necessary to produce sufficient revenue to effectively implement this division. The initial fee established by the department shall not be greater than thirty cents ($0.30) per tire or casing imported.

A nonreturnable interim fee of thirty cents ($0.30) per tire or casing imported, and for which a certificate is issued by the department or its designee, is hereby established and shall remain in effect until the department adopts the necessary regulations pursuant to this division.

23013. The department shall collect and account for all money received pursuant to this division and shall deposit it in the Mosquitoborne Disease Surveillance Account provided for in Section 25852 of the Government Code.

23014. Fees collected pursuant to this division shall be subject to the annual fee increase provisions of Section 113.

23015. Notwithstanding Section 25852 of the Government Code, fees deposited in the Mosquitoborne Disease Surveillance Account pursuant to this division shall be available for expenditure upon appropriation by the Legislature, to implement this division.

CHAPTER 3. PENALTIES

23020. It shall be a misdemeanor to violate this division.

CHAPTER 4. OPERATIVE CONDITIONS

23030. Chapter 2 (commencing with Section 23010) and Chapter 3 (commencing with Section 23020), shall be inoperative upon a finding by the Director of Health Services that the federal government has established and is implementing a program which is at least as effective in ensuring that used tires imported into this state are free of mosquitos, as are the importation requirements established by this division.

SEC. 3. The Director of Health Services shall adopt regulations implementing Division 17 (commencing with Section 23000) of the Health and Safety Code, as contained in Section 1 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 purposes of that chapter, any regulations adopted pursuant to this act shall be deemed to be necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

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 Director of Finance may authorize the department to borrow up to two hundred fifteen thousand dollars ($215,000) for the purpose of implementing Division 17 (commencing with Section 23000) of the Health and Safety Code, as enacted by Section 2 of this act, from any account deemed appropriate by the Director of Finance. The department shall repay the loan with interest to be determined in accordance with Section 16314 of the Government Code.

SEC. 6. There is hereby appropriated from the Mosquitoborne Disease Surveillance Account to the State Department of Health Services the sum of two hundred fifteen thousand dollars ($215,000) for purposes of implementing Division 17 (commencing with Section 23000) of the Health and Safety Code, as enacted by Section 2 of this act.

SEC. 7. Section 1.5 of this bill incorporates amendments to Section 113 of the Health and Safety Code proposed by both this bill and AB 550. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1988, (2) each bill amends Section 113 of the Health and Safety Code, and (3) this bill is enacted after AB 550, in which case Section 1 of this bill shall not become operative.

CHAPTER 1370

An act to amend Section 8152 of, and to amend, repeal, and add Section 8780 of, the Fish and Game Code, relating to fish, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987]

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

SECTION 1. Section 8152 of the Fish and Game Code is amended to read:

8152. (a) In addition to any other provision of this article, 350 tons of sardines may be taken and possessed for live bait purposes during any calendar year. Sardines may not be taken or possessed for live bait purposes except under a revocable, nontransferable permit issued by the department to a live bait fisherman upon application.

(b) Each permittee shall keep an accurate record of his or her fishing operations in a logbook furnished by the department. The fishery record for each trip shall be completed before any fish is offloaded from the fishing vessel. Fishing records for each month shall be submitted to the department on or before the 10th day of the following month. The department shall keep records of the catch and when it appears that the 350-ton limit will be reached, it shall notify all permitholders of the date when that limit will be reached and after which no sardines may be taken under this section, and shall notify, by certified mail, all permittees of the closure.

(c) The permit may be revoked or suspended by the commission, when requested by the department, for noncompliance with subdivision (b) or upon a conviction for a violation of this article.

(d) If 350 tons of sardines are taken for live bait purposes under this section, sardines may continue to be taken for live bait purposes, as provided for in Sections 8150.5 and 8151.

(e) This section shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 8780 of the Fish and Game Code is amended to read:

8780. (a) As used in this chapter, the term "bait net" means a lampara or round haul type net, the mesh of which is constructed of twine not exceeding Standard No. 9 medium cotton seine twine or synthetic twine of equivalent size or strength. The net shall not have rings along the lead line or any method of pursing the bottom of the net.

(b) Bait nets may be used to take fish for bait in Districts 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 19A, 19B, 20A, 21, 118, and 118.5.

(c) In District 19A, bait nets may be used only to take anchovies,

queenfish, white croakers, and smelt for bait only. Bait nets may not be used within 750 feet of Seal Beach Pier or Belmont Pier.

(d) No other species of fish may be taken on any boat carrying a bait net in District 19A, except that loads or lots of fish may contain not more than 18 percent by weight of the fish, of other bait fish species taken incidentally to other fishing operations and which are mixed with other fish in the load or lot.

(e) This section shall remain in effect only until July 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1991, deletes or extends that date.

SEC. 3. Section 8780 is added to the Fish and Game Code, to read:

8780. (a) As used in this chapter, the term "bait net" means a lampara or round haul type net, the mesh of which is constructed of twine not exceeding Standard No. 9 medium cotton seine twine or synthetic twine of equivalent size or strength. The net shall not have rings along the lead line or any method of pursing the bottom of the net.

(b) Bait nets may be used to take fish for bait in Districts 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 19A, 19B, 20A, 21, 118, and 118.5.

(c) In District 19A, bait nets may be used only to take anchovies, queenfish, white croakers, and smelt for bait only. Bait nets may not be used within 750 feet of Seal Beach Pier or Belmont Pier. No other species of fish may be taken on any boat carrying a bait net in District 19A.

(d) This section shall become operative on July 1, 1991.

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 for this act to be operative in this fishing season, it is necessary that this act take effect immediately.

CHAPTER 1371

An act to amend Section 20017.98 of the Government Code and to amend Section 830.4 of the Penal Code, relating to peace officers.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 20017.98 of the Government Code is amended to read:

20017.98. "State peace officer/firefighter member" means all members who are full-time permanent employees represented in Corrections Unit No. 6, Protective Services and Public Safety Unit No. 7, and Firefighters Unit No. 8 and are employed after the

operative date of this section in class titles which are designated as peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code or are firefighters whose principal duties consist of active firefighting/fire suppression.

A member who is employed in a position that is reclassified from state miscellaneous to state peace officer/firefighter pursuant to this section, may make an irrevocable election in writing to remain subject to the miscellaneous service retirement benefit and the normal rate of contribution by filing a notice of the election with the board within 90 days of notification by the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21251.13 only for service also included in the federal system.

Notwithstanding any other provision of law, security officers employed by the Department of Justice are not state peace officer/firefighter members, but are, for all purposes, state miscellaneous members.

This section shall not become applicable to any member included in a classification until such time as a ruling or regulation authorizing the inclusion of persons employed in that classification within the definition of "policeman or fireman" is issued by the federal agency for purposes of Section 218(d) (5) (A) of the Social Security Act. Section 20017.99 of the Government

SEC. 2. Section 830.4 of the Penal Code, as amended by Chapter 150 of the Statutes of 1987, is amended to read:

830.4. The following persons are peace officers while engaged in the performance of their duties in or about the properties owned, operated, or administered by their employing agency, or when they are required by their employer to perform their duties anywhere within the political subdivision which employs them. These officers shall also have the authority of peace officers anywhere in the state as to an offense committed, or which there is probable cause to believe has been committed, with respect to persons or property the protection of which is the duty of the officer or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is an immediate danger to person or property or of the escape of the perpetrator of the offense. These peace officers may carry firearms only if authorized by, and under such terms and conditions as are specified by, their employing agency:

(a) Security officers of the California State Police Division.

(b) The Sergeant at Arms of each house of the Legislature.

(c) Bailiffs of the Supreme Court and of the courts of appeal.

(d) Guards and messengers of the Treasurer's office.

(e) Officers designated by the hospital administrator of a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services pursuant to Section 4313 or 4493 of the Welfare and Institutions Code.

(f) Any railroad policeman commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code.

(g) Persons employed as members of a police department of a school district pursuant to Section 39670 of the Education Code.

(h) Safety police officers of the County of Los Angeles.

(i) Housing authority patrol officers employed by the housing authority of a city, district, county, or city and county or employed by the police department of a city and county.

(j) Transit police officers of a county, city, or district.

(k) Any person regularly employed as an airport law enforcement officer by a city, county, or district operating the airport or by a joint powers agency, created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, operating the airport.

(*l*) Court service officers in a county of the third class.

(m) Security officers of the Department of General Services of the City of Los Angeles designated by the General Manager of the department. Notwithstanding any other provision of law, the peace officers designated by this subdivision shall not be authorized to carry firearms.

(n) Firefighter/security guards employed by the Military Department.

(o) Security officers of the Department of Justice.

SEC. 3. It is the intent of the Legislature that the changes effected by Section 2 of this act shall serve only to define peace officers, the extent of their jurisdiction, and the nature and scope of their authority, powers, and duties, and that there shall be no change in the status of individuals for purpose of retirement, workers' compensation, or similar injury or death benefits, or other employees benefits.

CHAPTER 1372

An act to amend Sections 25281, 25284.5, 25284.7, 25291, 25292, and 25296 of, and to add Section 25284.4 to, the Health and Safety Code, and to repeal Sections 13173 and 13174 of the Water Code, relating to underground tanks, and making an appropriation therefor.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 25281 of the Health and Safety Code is amended to read:

25281. For purposes of this chapter, the following definitions apply:

(a) "Board" means the State Water Resources Control Board. "Regional board" means a California regional water quality control board.

(b) "Department" means the State Department of Health Services.

(c) "Facility" means any one, or combination of, underground storage tanks used by a single business entity at a single location or site.

(d) "Hazardous substance" means all of the following liquid and solid substances, unless the department, in consultation with the board, determines that the substance could not adversely affect the quality of the waters of the state:

(1) Substances on the list prepared by the Director of Industrial Relations pursuant to Section 6382 of the Labor Code.

(2) Hazardous substances, as defined in Section 25316.

(3) Any substance or material which is classified by the National Fire Protection Association (NFPA) as a flammable liquid, a class II combustible liquid, or a class III-A combustible liquid.

(e) "Local agency" means the department, office, or other agency of a county or city designated pursuant to Section 25283.

(f) "Operator" means the operator of an underground storage tank.

(g) "Owner" means the owner of an underground storage tank.

(h) "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, or association. "Person" also includes any city, county, district, the state, any department or agency thereof, or the United States to the extent authorized by federal law.

(i) "Pipe" means any pipeline or system of pipelines which is used in connection with the storage of hazardous substances and which are not intended to transport hazardous substances in interstate or intrastate commerce or to transfer hazardous materials in bulk to or from a marine vessel.

(j) "Primary containment" means the first level of containment, such as the portion of a tank which comes into immediate contact on its inner surface with the hazardous substance being contained.

(k) "Product-tight" means impervious to the substance which is contained, or is to be contained, so as to prevent the seepage of the substance from the primary containment. To be product-tight, the tank shall not be subject to physical or chemical deterioration by the substance which it contains over the useful life of the tank.

(*l*) "Secondary containment" means the level of containment external to, and separate from, the primary containment.

(m) "Single-walled" means construction with walls made of only one thickness of material. For the purpose of this chapter, laminated, coated, or clad materials are considered single-walled.

(n) "Special inspector" means a professional engineer, registered pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, who is qualified to attest, at a minimum, to structural soundness, seismic safety, the compatibility of construction materials with contents, cathodic protection, and the mechanical compatibility of the structural elements of underground

storage tanks.

(o) "Storage" or "store" means the containment, handling, or treatment of hazardous substances, either on a temporary basis or for a period of years. "Storage" or "store" does not mean the storage of hazardous wastes in an underground storage tank if the person operating the tank has been issued a hazardous waste facilities permit by the department pursuant to Section 25200 or granted interim status under Section 25200.5.

(p) "SWEEPS" means the Statewide Environmental Evaluation and Planning System administered by the California Association of Environmental Health Administrators.

(q) "Tank" means a stationary device designed to contain an accumulation of hazardous substances which is constructed primarily of nonearthen materials (e.g. wood, concrete, steel, plastic) which provides structural support.

(r) "Tank integrity test" means a test method capable of detecting an unauthorized release from an underground storage tank consistent with the minimum standards adopted by the board.

(s) "Tank tester" means an individual who performs tank integrity tests on underground storage tanks.

(t) "Unauthorized release" means any release or emission of any hazardous substance which does not conform to this chapter, unless this release is authorized by the board pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(u) "Underground storage tank" means any one or combination of tanks, including pipes connected thereto, which is used for the storage of hazardous substances and which is substantially or totally beneath the surface of the ground. "Underground storage tank" does not include any of the following:

(1) A tank used for the storage of hazardous substances used for the control of external parasites of cattle and subject to the supervision of the county agricultural commissioner if the county agricultural commissioner determines, by inspection prior to use, that the tank provides a level of protection equivalent to that required by Section 25291, if the tank was installed after June 30, 1984, or protection equivalent to that provided by Section 25292, if the tank was installed on or before June 30, 1984.

(2) A tank which is located on a farm, which stores motor vehicle or heating fuel used primarily for agricultural purposes, and which holds 1,100 gallons or less.

(3) A tank which holds 1,100 gallons or less, is located at a residence of a person, and stores home heating fuel used exclusively for personal and nonincome producing purposes.

(4) A tank which is used for aviation or motor vehicle fuel, which tank is located within one mile of a farm and used by a licensed pest control operator, as defined in Section 11705 of the Food and Agricultural Code, who is primarily involved in agricultural pest control activities.

(5) Structures such as sumps, separators, storm drains, catch

basins, oil field gathering lines, refinery pipelines, lagoons, evaporation ponds, well cellars, separation sumps, lined and unlined pits, sumps and lagoons. Sumps which are a part of a monitoring system required under Section 25291 or 25292 are not exempted by this section. Structures identified in this paragraph may be regulated by the board pursuant to the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) to ensure that they do not pose a threat to water quality.

SEC. 2. Section 25281 of the Health and Safety Code is amended to read:

25281. For purposes of this chapter, the following definitions apply:

(a) "Board" means the State Water Resources Control Board. "Regional board" means a California regional water quality control board.

(b) "Department" means the State Department of Health Services.

(c) "Facility" means any one, or combination of, underground storage tanks used by a single business entity at a single location or site.

(d) "Hazardous substance" means all of the following liquid and solid substances, unless the department, in consultation with the board, determines that the substance could not adversely affect the quality of the waters of the state:

(1) Substances on the list prepared by the Director of Industrial Relations pursuant to Section 6382 of the Labor Code.

(2) Hazardous substances, as defined in Section 25316.

(3) Any substance or material which is classified by the National Fire Protection Association (NFPA) as a flammable liquid, a class II combustible liquid, or a class III-A combustible liquid.

(e) "Local agency" means the department, office, or other agency of a county or city designated pursuant to Section 25283.

(f) "Methanol" means a light volatile flammable poisonous liquid alcohol with a chemical makeup of CH_3OH.

(g) "Methanol fuel" means a product containing up to 100 percent methanol used to fuel motor vehicles or fuel an engine.

(h) "Motor vehicle" means a self-propelled device by which any person or property may be propelled, moved, or drawn.

(i) "Motor vehicle fuel storage tank" means an underground storage tank that contains a product which is intended to be used primarily to fuel motor vehicles or fuel an engine. For the purposes of Section 25291.1, "motor vehicle fuel storage tank" does not include any of the following:

(1) A tank which is located on a farm and stores motor vehicle fuel used primarily for agricultural purposes.

(2) A tank located at an industrial business site. For purposes of this paragraph, "industrial business site" means a site zoned for a manufacturing business.

(3) A tank located at a corporate motor vehicle fleet facility where

less than 15 light-duty vehicles are based. For purposes of this paragraph, "corporate vehicle fleet" means a vehicle fleet owned by a business entity whose purpose is financial gain, and "light-duty vehicle" has the same meaning as defined in Section 39035.

(j) "Operator" means the operator of an underground storage tank.

(k) "Owner" means the owner of an underground storage tank.

(*l*) "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, or association. "Person" also includes any city, county, district, the state, any department or agency thereof, or the United States to the extent authorized by federal law.

(m) "Pipe" means any pipeline or system of pipelines which is used in connection with the storage of hazardous substances and which are not intended to transport hazardous substances in interstate or intrastate commerce or to transfer hazardous materials in bulk to or from a marine vessel.

(n) "Primary containment" means the first level of containment, such as the portion of a tank which comes into immediate contact on its inner surface with the hazardous substance being contained.

(o) "Product-tight" means impervious to the substance which is contained, or is to be contained, so as to prevent the seepage of the substance from the primary containment. To be product-tight, the tank shall not be subject to physical or chemical deterioration by the substance which it contains over the useful life of the tank.

(p) "Secondary containment" means the level of containment external to, and separate from, the primary containment.

(q) "Single-walled" means construction with walls made of only one thickness of material. For the purpose of this chapter, laminated, coated, or clad materials are considered single-walled.

(r) "Special inspector" means a professional engineer, registered pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, who is qualified to attest, at a minimum, to structural soundness, seismic safety, the compatibility of construction materials with contents, cathodic protection, and the mechanical compatibility of the structural elements of underground storage tanks.

(s) "Storage" or "store" means the containment, handling, or treatment of hazardous substances, either on a temporary basis or for a period of years. "Storage" or "store" does not mean the storage of hazardous wastes in an underground storage tank if the person operating the tank has been issued a hazardous waste facilities permit by the department pursuant to Section 25200 or granted interim status under Section 25200.5.

(t) "SWEEPS" means the Statewide Environmental Evaluation and Planning System administered by the California Association of Environmental Health Administrators.

(u) "Tank" means a stationary device designed to contain an accumulation of hazardous substances which is constructed primarily

of nonearthen materials (e.g. wood, concrete, steel, plastic) which provides structural support.

(v) "Tank integrity test" means a test method capable of detecting an unauthorized release from an underground storage tank consistent with the minimum standards adopted by the board.

(w) "Tank tester" means an individual who performs tank integrity tests on underground storage tanks.

(x) "Unauthorized release" means any release or emission of any hazardous substance which does not conform to this chapter, unless this release is authorized by the board pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(y) "Underground storage tank" means any one or combination of tanks, including pipes connected thereto, which is used for the storage of hazardous substances and which is substantially or totally beneath the surface of the ground. "Underground storage tank" does not include any of the following:

(1) A tank used for the storage of hazardous substances used for the control of external parasites of cattle and subject to the supervision of the county agricultural commissioner if the county agricultural commissioner determines, by inspection prior to use, that the tank provides a level of protection equivalent to that required by Section 25291, if the tank was installed after June 30, 1984, or protection equivalent to that provided by Section 25292, if the tank was installed on or before June 30, 1984.

(2) A tank which is located on a farm, which stores motor vehicle or heating fuel used primarily for agricultural purposes, and which holds 1,100 gallons or less.

(3) A tank which holds 1,100 gallons or less, is located at a residence of a person, and stores home heating fuel used exclusively for personal and nonincome producing purposes.

(4) A tank which is used for aviation or motor vehicle fuel, which tank is located within one mile of a farm and used by a licensed pest control operator, as defined in Section 11705 of the Food and Agricultural Code, who is primarily involved in agricultural pest control activities.

(5) Structures such as sumps, separators, storm drains, catch basins, oil field gathering lines, refinery pipelines, lagoons, evaporation ponds, well cellars, separation sumps, lined and unlined pits, sumps and lagoons. Sumps which are a part of a monitoring system required under Section 25291 or 25292 are not exempted by this section. Structures identified in this paragraph may be regulated by the board pursuant to the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) to ensure that they do not pose a threat to water quality.

SEC. 3. Section 25284.4 is added to the Health and Safety Code, to read:

25284.4. (a) On and after January 1, 1989, all tank integrity tests required by this chapter or pursuant to any local ordinance in compliance with Section 25299.1 shall be performed only by, or

under the direct and personal supervision of, a tank tester with a currently valid tank testing license issued pursuant to this section. No person shall engage in the business of tank integrity testing, or act in the capacity of a tank tester, within this state on and after January 1, 1989, without first obtaining a tank testing license from the board. The board may extend the January 1, 1989, date for a period of not more than one year, to give tank testers a reasonable opportunity to qualify for licensing. Any person who violates this subdivision is guilty of a misdemeanor and may be subject to civil liability pursuant to subdivision (h).

(b) Any person proposing to conduct tank integrity testing within the state shall apply to the board for a tank testing license, and shall pay the appropriate fee established by the board. A license issued pursuant to this section shall expire three years after the date of issuance and shall be subject to renewal, except as specified in this section. If the tank tester fails to renew the tank tester's license within three years of the license's expiration date, the license shall lapse and the person shall apply for a new tank testing license and shall meet the same requirements of this section for a new applicant. A tank tester shall pay a fee to the board at the time of licensing and at the time of renewal. The board shall adopt a fee schedule for the issuance and renewal of tank testing licenses to cover the necessary and reasonable costs of administering and enforcing this section.

(c) The board may establish any additional qualifications and standards for the licensing of tank testers. Each applicant for licensing as a tank tester shall demonstrate a minimum of either one year of qualifying experience of testing underground storage tanks, or have successfully completed a course of study applicable to tank testing which is satisfactory to the board, and shall pass an examination specified by the board. The examination shall, at a minimum, test the applicant's knowledge of all of the following:

(1) General principles of tank and pipeline testing.

(2) Basic understanding of the mathematics relating to tank testing.

(3) Understanding of the specific test procedures, principles, and equipment for which the tank tester will be qualified to operate.

(4) Knowledge of the regulations and laws governing the regulation of underground storage tanks.

(5) Proper safety procedures.

(d) The board shall maintain a current list of all persons licensed pursuant to this section, including a record of enforcement actions taken against these persons. This list shall be made available to local agencies and the public on request.

(e) The board shall adopt any regulations necessary to implement tank tester licensing. The board shall adopt these regulations 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, 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 board pursuant to this section shall be filed with, but not repealed by, the Office of Administrative Law and shall remain in effect until revised by the board.

(f) A tank tester may be liable civilly in accordance with subdivision (h) and, in addition, may be subject to administrative sanctions pursuant to subdivision (g) for performing or causing another to perform, any of the following actions:

(1) Willfully or negligently violating, or causing, or allowing the violation of, this chapter or any regulations adopted pursuant to this chapter.

(2) Willfully or negligently failing to exercise direct and personal control over an unlicensed employee, associate, assistant, or agent during any phase of tank integrity testing.

(3) Without regard to intent or negligence, using or permitting a licensed or unlicensed employee, associate, assistant, or agent to use any method or equipment which is demonstrated to be unsafe or unreliable for tank integrity testing.

(4) Submitting false or misleading information on an application for license.

(5) Using fraud or deception in the course of doing business as a tank tester.

(6) Failing to use reasonable care, or judgment, while performing tank integrity tests.

(7) Failing to maintain competence in approved tank testing procedures.

(8) Failing to use proper tests or testing equipment to conduct tank integrity tests.

(9) Any other action which the board may, by regulation, prescribe.

(g) (1) The board may suspend the license of a tank tester for a period of up to one year, and may revoke, or refuse to grant or renew, a license and may place on probation, or reprimand, the licensee upon any reasonable ground, including, but not limited to, those violations specified in subdivision (f). The board may investigate any licensed tank tester after receiving a written request from a local agency.

(2) The board shall notify the tank tester of any alleged violations and of proposed sanctions, before taking any action pursuant to this subdivision. The tank tester may request a hearing, or submit a written response within 30 days of the date of notice. Any hearing conducted pursuant to this subdivision shall be conducted in accordance with the hearing procedure specified in subdivision (h). After the hearing, or at a time after the 30-day response period, the board may impose the appropriate administrative sanctions

authorized by this subdivision if it finds that the tank tester has committed any of the alleged violations specified in the notice.

(h) (1) The board may impose civil liability for a violation of subdivision (a) or (f) in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 of Division 7 of the Water Code, in an amount which shall not exceed five hundred dollars ($500) for each day in which the violation occurs, except that the chief of the division of water quality of the board or any other person designated by the board shall issue the complaint to the violator. The complaint shall be issued based on information developed by board staff or local agencies. Any hearing on the complaint shall be made before the board, or a panel thereof, consisting of one or more board members. The decision of the board shall be final upon issuance and may be reviewed pursuant to Section 13325 of the Water Code within 30 days following issuance of the order.

(2) Civil liability for a violation of subdivision (a) or (f) may be imposed by a superior court at the request of the board in an amount which shall not exceed two thousand five hundred dollars ($2,500) for each day in which the violation occurs.

(i) Any fees or civil liability collected pursuant to this section shall be deposited in the Underground Storage Tank Tester Account which is hereby created in the General Fund. The money in this account is available for expenditure by the board, upon appropriation by the Legislature, for purposes of implementing the tank tester licensing program established by this section and for repayment of the loan made by Section 13 of the act of the 1987–88 Regular Session of the Legislature which added this section.

SEC. 4. Section 25284.5 of the Health and Safety Code is amended 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 refuses 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) (1) 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.

(2) A tank owner or operator is not in violation of this subdivision if all of the following conditions occur:

(A) The tank owner or operator has a permit to operate an underground tank, which permit specifies a monitoring alternative requiring the installation of equipment.

(B) The tank owner or operator has a binding agreement, which is acceptable to the local agency, for the installation of the equipment required under subparagraph (A) or the tank owner or operator demonstrates to the local agency that he or she is making a good faith

effort to enter into such an agreement.

(C) The installation of the equipment required under subparagraph (A) is completed within a reasonable period of time, as determined by the local agency, but not later than January 1, 1989.

(D) The tank owner or operator utilizes daily gauging and inventory reconciliation.

(E) The tank owner or operator performs, or causes to be performed, a tank integrity test on the tank at least once every 12 months or as provided in Section 25284.7.

(F) The tank owner or operator utilizes leak detection devices for pressurized piping systems, as required by Section 25292.

(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) Any owner or operator who, before March 1, 1986, submitted an application for a permit or who inquired as to whether the local agency was prepared to receive an application for a permit, but who has not received a permit solely because of the local agency's failure to act upon, or explicit refusal to receive, the permit application, shall not be held in violation of this section.

SEC. 5. Section 25284.7 of the Health and Safety Code is amended to read:

25284.7. Notwithstanding 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 and who select a monitoring alternative which has been adopted by the board and which requires annual tank integrity testing, may conduct the first of the annual tank integrity 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 tank integrity tests need not be conducted until 30 months after the first tank integrity test. Thereafter, the tank integrity 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. 6. 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) The underground storage tank shall 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 underground storage tank to a monitoring well to detect any release of motor vehicle fuels stored in the tank.

(C) The system is 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 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

conditions of this subdivision if the tank meets the conditions of subparagraphs (A) to (D), inclusive. However, any pipe connected to an underground storage tank installed after July 1, 1987, shall be equipped with secondary containment which complies with paragraphs (1) to (6), inclusive.

(b) The underground storage tank shall 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, the underground storage tank shall have 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, those substances 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 tank integrity test.

(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. 7. Section 25292 of the Health and Safety Code is amended to read:

25292. For every underground storage tank installed on or before January 1, 1984, and used for the storage of hazardous substances, the following actions shall be taken:

(a) On or before July 1, 1985, the owner shall outfit the facility with a monitoring system capable of detecting unauthorized releases of any hazardous substances stored in the facility, and thereafter, the operator shall monitor each facility, based on materials stored and the type of monitoring installed.

(b) Provide a means for visual inspection of the tank, wherever practical, for the purpose of the monitoring required by subdivision (a). Alternative methods of monitoring the tank on a monthly, or more frequent basis, may be required by the local agency, consistent with the regulations of the board.

The alternative monitoring methods include, but are not limited to, the following methods:

(1) Tank integrity testing for proving the integrity of an underground storage tank and piping system at time intervals specified by the board

(2) A groundwater monitoring well or wells which are downgradient and adjacent to the underground storage tank, vapor analysis within a well where appropriate, and analysis of soil borings at the time of initial installation of the well.

(3) A continuous leak detection and alarm system which is located in monitoring wells adjacent to an underground storage tank and which is approved by the local agency.

(4) For monitoring tanks containing motor vehicle fuels, daily gauging and inventory reconciliation by the operator, if all of the following requirements are met:

(A) Inventory records are kept on file for one year and are reviewed quarterly.

(B) The tank is tested, using the tank integrity test at time intervals specified by the board and whenever there is a shortage greater than the amount which the board shall specify by regulation.

(C) If a pressurized pump system is connected to the tank system, the system has a leak detection device to monitor for leaks in the piping. The leak detection device shall be installed in a manner designed to resist unauthorized tampering and to clearly show by visual inspection if tampering has occurred. The leak detection device shall be tested annually, at a minimum, and all devices found to be not performing in conformance with the manufacturer's leak detection specifications shall be promptly repaired or replaced.

(5) For monitoring underground storage tanks which are located on farms and which store motor vehicle or heating fuels used primarily for agricultural purposes, alternative monitoring methods include the following:

(A) If the tank has a capacity of greater than 1,100 gallons but of 5,000 gallons or less, the tank shall be tested using the tank integrity

test, at least once every three years, and the owner shall utilize tank gauging on a monthly or more frequent basis, as required by the local agency, subject to the specifications provided in paragraph (7) of subdivision (c) of Section 2641 of Title 23 of the California Administrative Code, as that section read on August 13, 1985.

(B) If the tank has a capacity of more than 5,000 gallons, the tank shall be monitored pursuant to the methods for all other tanks specified in this subdivision.

(c) The board shall develop regulations specifying monitoring alternatives. The local agency, or any other public agency specified by the local agency, shall approve the location and number of wells, the depth of wells, and the sampling frequency, pursuant to these regulations.

SEC. 8. Section 25296 of the Health and Safety Code is amended to read:

25296. (a) If there has been any unauthorized release, as defined in Section 25294 or subdivision (a) of Section 25295, from an underground storage tank containing motor vehicle fuel not under pressure, the permitholder may repair the tank once by an interior-coating process if the tank meets all of the following requirements:

(1) One of the following tests has been conducted to determine the thickness of the storage tank:

(A) An ultrasonic test.

(B) Certification by a special inspector that the shell will provide structural support for the interior lining. The special inspector shall make this certification by entering and inspecting the entire interior surface of the tank and shall base this certification upon the following procedures and criteria:

(i) If the tank is made of fiberglass, the tank is cleaned so that no residue remains on the tank wall surface. The special inspector shall take interior diameter measurements and, if the cross-section has compressed more than 1 percent of the original diameter, the tank shall not be certified and shall also not be returned to service. The special inspector shall also conduct an interior inspection to identify any area where compression or tension cracking is occurring and shall determine whether additional glass fiber reinforcing is required for certification before the tank may be lined.

(ii) If the tank is made of steel, the tank interior surface shall be abrasive blasted completely free of scale, rust, and foreign matter, as specified in the American Petroleum Institute's recommended practice 16-31, relating to white metal blasting. The special inspection shall sound any perforations or areas showing corrosion pitting with a brass ballpeen hammer to enlarge the perforation or break through a potentially thin steel area. Tanks that have any of the following defects shall not be certified or returned to service:

(I) A tank which has an open seam or a split longer than three inches.

(II) A tank which has a perforation larger than one and one-half

inches in diameter, or a gauging opening larger than two and one-half inches in diameter.

(III) A tank with five or more perforations.

(IV) A tank with 20 or more perforations in a 500 square foot area.

(V) A tank with a perforation larger than one-half inch.

(C) A test approved by the board as comparable to the tests specified in subparagraph (A) or (B).

If the person conducting the test determines that the test results indicate that the tank has a serious corrosion problem, the local agency may require additional corrosion protection for the tank or may prohibit the permitholder from making the repair.

(2) The material used to repair the tank by an interior-coating process is compatible with the motor vehicle fuel that is stored, as approved by the board by regulation.

(3) The material used to repair the tank by an interior-coating process is applied in accordance with nationally recognized engineering practices such as the American Petroleum Institute's recommended practice No. 1631 for the interior lining of existing underground storage tanks.

(4) Before the tank is placed back into service following the repair, the tank is tested in the operating condition using the tank integrity test.

(b) The board may adopt regulations, in consultation with the State Fire Marshal, for the repair of underground storage tanks, which may include, but are not limited to, a requirement that a test be conducted to determine whether the interior-coating process has bonded to the wall of the tank. The standards specified in subdivision (a) shall remain in effect until the adoption of these regulations.

(c) The board shall, by regulation, require that monitoring systems be installed when a repair is made pursuant to this section. For purposes of this subdivision, "monitoring system" means a continuous leak detection and alarm system which is located in monitoring wells adjacent to an underground storage tank and which is approved by the board.

(d) If there has not been an unauthorized release, as defined in subdivision (a) of Section 25295, from an underground storage tank containing motor vehicle fuel not under pressure, the permitholder may line the interior of the tank as a preventative measure. If an unauthorized release occurs from a tank which was lined as a preventative measure, the permitholder shall not reline the tank again.

SEC. 9. Section 13173 of the Water Code is repealed.

SEC. 10. Section 13174 of the Water Code is repealed.

SEC. 11. Section 2 of this bill incorporates amendments to Section 25281 of the Health and Safety Code proposed by both this bill and SB 921. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1988, (2) each bill amends Section 25281 of the Health and Safety Code, and (3) this bill is enacted after SB 921, in which case Section 1 of this bill shall not

become operative.

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.

SEC. 13. The Director of Finance may loan up to three hundred fifty thousand dollars ($350,000) to the State Water Resources Control Board for costs of the board to carry out Section 25284.4 of the Health and Safety Code. The loan may be made from the General Fund at an interest rate equal to the pooled money investment rate in effect on the date the loan is made. The length of the loan term shall be determined by the director.

CHAPTER 1373

An act to amend Sections 10008, 10101, and 10125 of, to add and repeal Article 3.45 (commencing with Section 324.7) of Part 1 of Division 1 of, and to repeal Section 10056.5 of, the Health and Safety Code, and to amend Section 14134.5 of the Welfare and Institutions Code, relating to childbirth.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987.]

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

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

(a) The State of California has a compelling interest in promoting optimal birthing conditions for each newborn and his or her family, and in assuring access to a range of qualified birthing personnel providing at least adequate levels of prenatal, birthing, and postpartum care and services to each newborn Californian and his or her family.

(b) The present failure of California to assure adequate standards of that care, and especially continuity throughout pregnancy and the birth event, has resulted in abysmal infant morbidity and mortality rates relative to any and all industrialized nations, and below many far less affluent nations.

(c) The reasons for this unacceptable and shameful failure have been articulated in many studies and journals, and have been the subject of numerous hearings before the Legislature and the inspiration for many serious legislative proposals and initiatives, some of which have been enacted and implemented.

(d) Foremost among the reasons for high morbidity and mortality rates in California is that the cost of even minimal standards of

obstetrical care is out of the reach of many Californians who fail to seek out prenatal care in preparation for delivery, and who, as a result, do not receive the care essential to the health of their newborn.

(e) The measure most often cited as a general indication of poor prenatal care is low and very low birth weight. This measure is also cited most often in connection with mortality, serious and life-threatening complications, and as a factor in an overwhelming number of long-term and intensive care hospitalizations.

(f) Low and very low birth weight is routinely prevented when even minimal prenatal care is provided, and is among the most preventable of poor birth outcomes.

(g) Minimal standards of prenatal care require continuity of professional care from the first trimester through the birth event.

(h) Inadequate prenatal care is defined as failing to receive professional care until the third trimester, if at all. One hundred sixty-six thousand one hundred sixty California babies were born to mothers receiving inadequate prenatal care between 1979 and 1983, according to a study performed under the auspices of the California Obstetrical Access Pilot Project. One out of 12 mothers in California receives inadequate medical attention by this standard today.

(i) The mortality rate for babies born without adequate care, as defined above, is five times greater than for those receiving even minimal level prenatal care.

(j) Among teenage mothers, 15 years and younger, 22.3 percent fail to receive adequate care during their pregnancy.

(k) Among Black and Hispanic mothers, over 30 percent fail to receive any prenatal care in the first trimester. The low birth weight among all Black families is twice the general population, and twice as many Black babies die within the first year of life as the general population.

(*l*) As estimated by the California Obstetrical Access Pilot Project study, the taxpayer cost of caring for low birth weight babies in California in 1984 was over twenty-nine million dollars ($29,000,000) for Medi-Cal payment to neonatal intensive care units alone.

(m) The California Obstetrical Access Pilot Project demonstrated a reduction of low birth weight outcomes of between 30 and 40 percent over a control group through providing a minimal and relatively inexpensive standard of prenatal care. The project also documented a net cost savings to taxpayers of about two dollars and sixty cents ($2.60) for every dollar invested in the pilot project.

(n) Obstetrical services provided to mothers who are Medi-Cal recipients are reimbursed at between 25 and 30 percent of third party or private fees.

(o) In a recent American Medical Association poll, one in four obstetricians and family practitioners reported that they had left their obstetrical practice already or were seriously considering discontinuing delivery services entirely because of liability insurance costs.

(p) Today, less than 35 percent of physicians accept Medi-Cal recipients for obstetrical care.

(q) The state's compelling interest in assuring appropriate levels of obstetrical, and especially prenatal, care to all Californians must continue to be addressed; however, even where direct costs savings can be immediately shown, it is the intention of the Legislature to seek out and implement those reforms which will provide maximum benefit at the least cost to the taxpayer.

SEC. 2. (a) The Alternative Birthing Methods Study (ABMS), Chapter 1645 of the Statutes of 1984, was mandated to explore the factors needed to provide healthy and humane births to California families.

(b) The ABMS study concluded that systemic problems existed as a barrier to assuring even adequate birthing care in California, including, cost of care, distribution of professional care in the state, the inadequacy of Medi-Cal reimbursement rates and the lack of professionals who will accept Medi-Cal recipients, defensive standards of practice in normal births, lack of safe and affordable birthing options for the family, lack of knowledge about choosing safe birthing options, and defensive and routine hospital protocols and procedures in normal pregnancies which were unacceptable to the general public in general and certain cultural minorities in specific.

(c) It is the intent of the Legislature, by enacting this act, to address, to the extent fiscally possible, these barriers to adequate obstetrical care, and to implement the recommendations of the Alternative Birthing Methods Study.

SEC. 3. The Legislature find and declares the following:

(a) Certified Nurse Midwives (CNM's) are professionally qualified to monitor and provide obstetrical care for approximately 50 to 60 percent of all pregnancies, and virtually all normal deliveries.

(b) CNM's constitute an increasingly important solution to the crisis in obstetrical access, costs, and lack of safe birthing options. The utilization of CNM's should be dramatically increased to assure adequate obstetrical care to all Californians.

(c) Obstacles to increasing the utilization of CNM's include lack of hospital privileges, liability insurance costs and availability, lack of funding for training facilities, and the difficulty in securing physicians with whom to practice in a consultative relationship.

SEC. 4. Article 3.45 (commencing with Section 324.7) is added to Part 1 of Division 1 of the Health and Safety Code, to read:

Article 3.45. Infant Mortality and Morbidity Prevention

324.7. The State Department of Health Services shall develop a plan to identify causes of infant mortality and morbidity in California and to study recommendations on the reduction of infant mortality and morbidity in California.

The study plan shall be completed on or before July 1, 1988, and shall be developed in conjunction with, and reviewed by, each of the

following organizations:

(1) The California Medical Association.
(2) The California Nurses Association.
(3) The California Hospital Association.
(4) The American College of Obstetrics and Gynecologists.
(5) The American College of Nurse Midwives.
(6) The California Academy of Family Physicians.
(7) The American Academy of Pediatrics.
(8) The California Association of Freestanding Birth Centers.
(9) The American Public Health Association.
(10) The Board of Medical Quality Assurance.
(11) The Board of Registered Nurses.
(12) The Department of Consumer Affairs.
(13) The Office of Statewide Health Planning and Development.
(14) The California Association of Midwives.

324.8. The study plan shall incorporate in its design the findings of MCH Title V Research Contract DHS 8689088, the "Maternal Neonatal and Fetal Mortality Study."

The State Department of Health Services shall issue a report to the Legislature on or before July 1, 1989, concerning causal factors in infant mortality and morbidity.

SEC. 5. Section 10008 of the Health and Safety Code is amended to read:

10008. When objection is made by either parent to the furnishing of information requested in items (3), (9), and (10) in the confidential portion of the certificate of live birth, specified in subdivision (b) of Section 10125, this information shall not be required to be entered on that portion of the certificate of live birth.

SEC. 6. Section 10101 of the Health and Safety Code is amended to read:

10101. For live births which occur in a hospital, the administrator of the hospital or a representative designated by the administrator in writing may sign the birth certificate certifying the fact of birth instead of the attending physician and surgeon, certified nurse midwife, or principal attendant if the physician and surgeon, certified nurse midwife, or principal attendant is not available to sign the certificate; and shall be responsible for registering the certificate with the local registrar within the time specified in Section 10100.

SEC. 7. Section 10125 of the Health and Safety Code is amended to read:

10125. (a) The certificate of live birth for any live birth occurring on or after January 1, 1980, shall contain those items necessary to establish the fact of the birth and shall contain only the following information:

(1) Full name and sex of child.
(2) Date of birth, including month, day, hour, and year.
(3) Planned place of birth and place of birth.
(4) Full name of father, birthplace, and date of birth of father including month, day, and year.

(5) Full birth name of mother, birthplace, and date of birth of mother including month, day, and year.

(6) Multiple births and birth order of multiple births.

(7) Signature, and relationship to child, of a parent or other informant, and date signed.

(8) Name, title, and mailing address of attending physician and surgeon or principal attendant, signature, and certification of live birth by attending physician and surgeon or principal attendant or certifier, date signed, and name and title of certifier if other than attending physician and surgeon or principal attendant.

(9) Date accepted for registration and signature of local registrar.

(10) A state birth certificate number and local registration district and number.

(11) A blank space for entry of date of death with a caption reading "Date of Death."

(b) In addition to the items listed in subdivision (a), the certificate of live birth shall contain the following medical and social information, provided that the information is kept confidential pursuant to the provisions of Section 10125.5 and is clearly labeled "Confidential Information for Public Health Use Only":

(1) Birth weight.

(2) Pregnancy history.

(3) Race and ethnicity of mother and father.

(4) Residence address of mother.

(5) A blank space for entry of census tract for mother's address.

(6) Month prenatal care began and number of prenatal visits.

(7) Date of last normal menses.

(8) Description of complications of pregnancy and concurrent illnesses, congenital malformation, and any complication of labor and delivery, including surgery; provided that this information is essential medical information and appears in total on the face of the certificate.

(9) Mother's and father's occupations and kind of business or industry.

(10) Education level of mother and father.

(c) Item 8, specified in subdivision (b), shall be completed by the attending physician and surgeon or the attending physician's and surgeon's designated representative. The names and addresses of children born with congenital malformations, who require followup treatment, as determined by the child's physician and surgeon, shall be furnished by the physician and surgeon to the local health officer, if permission is granted by either parent of the child.

(d) The parent shall only be asked to sign the form after both the public portion and the confidential medical and social information items have been entered upon the certificate of live birth.

(e) The State Registrar shall instruct all local registrars to collect the information specified in this section with respect to certificates of live birth. The information shall be transcribed on the certificate of live birth in use at the time and shall be limited to the information

specified in this section.

Information relating to concurrent illnesses, complications of pregnancy and delivery, and congenital malformations shall be completed by the physician and surgeon, or physician's and surgeon's designee, inserting in the space provided on the confidential portion of the certificate the appropriate number or numbers listed on the VS-10A supplemental worksheet. The VS-10A supplemental form shall be used as a worksheet only and shall not in any manner be linked with the identity of the child or the mother, nor submitted with the certificate to the State Registrar. All information transferred from the worksheet to the certificate shall be fully explained to the parent or other informant prior to the signing of the certificate. No questions relating to drug or alcohol abuse may be asked.

SEC. 8. Section 10056.5 of the Health and Safety Code is repealed.

SEC. 9. Sections 6 to 9, inclusive, of this act shall apply only to children born on or after January 1, 1989.

SEC. 10. Section 14134.5 of the Welfare and Institutions Code is amended to read:

14134.5. All of the following provisions apply to the provision of services pursuant to subdivision (v) of Section 14132:

(a) "Comprehensive perinatal provider" means any general practice physician, family practice physician, obstetrician-gynecologist, pediatrician, certified nurse midwife, a group, any of whose members is one of the above-named physicians, or any preferred provider organization or clinic holding a valid and current Medi-Cal provider number and certified pursuant to the standards of this section.

(b) "Perinatal" means the period from the establishment of pregnancy to one month following delivery.

(c) "Comprehensive perinatal services" shall include, but not be limited to, the provision of the combination of services developed through the Department of Health Services Obstetrical Access Pilot Program.

(d) The comprehensive perinatal provider shall schedule visits with appropriate providers and shall track the patient to verify whether services have been received. As part of the reimbursement for coordinating these services, the comprehensive perinatal provider shall ensure the provision of the following services either through the provider's own service or through subcontracts or referrals to other providers:

(A) A psychosocial assessment and when appropriate referrals to counseling.

(B) Nutrition assessments and when appropriate referral to counseling on food supplement programs, vitamins and breast-feeding.

(C) Health, childbirth, and parenting education.

(e) Except where existing law prohibits the employment of physicians, a health care provider may employ or contract with all

of the following medical and other practitioners for the purpose of providing the comprehensive services delineated in this section:

(1) Physicians, including a general practitioner, a family practice physician, a pediatrician, or an obstetrician-gynecologist.

(2) Certified nurse midwives.

(3) Nurses.

(4) Nurse practitioners.

(5) Physicians assistants.

(6) Social workers.

(7) Health and childbirth educators.

(8) Registered dietitians.

The department shall promulgate regulations which define the qualifications of any of these practitioners who are not currently included under the regulations promulgated pursuant to this chapter. Providers shall, as feasible, utilize staffing patterns which reflect the linguistic and cultural features of the populations they serve.

(f) The California Medical Assistance Program and the Maternal and Child Health Branch of the State Department of Health Services in consultation with the California Conference of Local Health Officers shall establish standards for health care providers and for services rendered pursuant to this subdivision.

(g) The department shall assist local health departments to establish a community perinatal program whose responsibilities may include certifying and monitoring providers of comprehensive perinatal services. The department shall provide the local health departments with technical assistance for the purpose of implementing the community perinatal program. The department shall, to the extent feasible, and to the extent funding for administrative costs is available, utilize local health departments in the administration of the perinatal program. If such funds are not available, the department shall use alternative means to implement the community perinatal program.

(h) It is the intent of the Legislature that the department shall establish a method for reimbursement of comprehensive perinatal providers which shall include a fee for coordinating services and which shall be sufficient to cover reasonable costs for the provision of comprehensive perinatal services. The department may utilize fees for service, capitated fees, or global fees to reimburse providers. However, if capitated or global fees are established, the department shall set minimum standards for the provision of services including, but not limited to, the number of prenatal visits and the amount and type of psychosocial, nutritional, and educational services patients shall receive.

Notwithstanding the type of reimbursement system, the comprehensive perinatal provider shall not be financially at risk for the provision of inpatient services. The provision of inpatient services which are not related to perinatal care shall not be subject to the provisions of this section. Inpatient services related to services

pursuant to this subdivision shall be reimbursed, in accordance with Section 14081, 14086, 14087, or 14087.2, whichever is applicable.

(i) The department shall develop systems for monitoring and oversight of the comprehensive perinatal services provided in this section. The monitoring shall include, but shall not be limited to, collection of information using the perinatal data form.

(j) Participation for services provided pursuant to this section shall be voluntary. The department shall adopt patient rights safeguards for recipients of the comprehensive perinatal services.

SEC. 11. Section 14134.5 of the Welfare and Institutions Code is amended to read:

14134.5. All of the following provisions apply to the provision of services pursuant to subdivision (v) of Section 14132:

(a) "Comprehensive perinatal provider" means any general practice physician, family practice physician, obstetrician-gynecologist, pediatrician, certified nurse midwife, a group, any of whose members is one of the above-named physicians, or any preferred provider organization or clinic holding a valid and current Medi-Cal provider number and certified pursuant to the standards of this section.

(b) "Perinatal" means the period from the establishment of pregnancy to one month following delivery.

(c) "Comprehensive perinatal services" shall include, but not be limited to, the provision of the combination of services developed through the Department of Health Services Obstetrical Access Pilot Program.

(d) The comprehensive perinatal provider shall schedule visits with appropriate providers and shall track the patient to verify whether services have been received. As part of the reimbursement for coordinating these services, the comprehensive perinatal provider shall ensure the provision of the following services either through the provider's own service or through subcontracts or referrals to other providers:

(1) A psychosocial assessment and when appropriate referrals to counseling.

(2) Nutrition assessments and when appropriate referral to counseling on food supplement programs, vitamins and breast-feeding.

(3) Health, childbirth, and parenting education.

(e) Except where existing law prohibits the employment of physicians, a health care provider may employ or contract with all of the following medical and other practitioners for the purpose of providing the comprehensive services delineated in this section:

(1) Physicians, including a general practitioner, a family practice physician, a pediatrician, or an obstetrician-gynecologist.

(2) Certified nurse midwives.

(3) Nurses.

(4) Nurse practitioners.

(5) Physicians assistants.

(6) Social workers.
(7) Health and childbirth educators.
(8) Registered dietitians.

The department shall promulgate regulations which define the qualifications of any of these practitioners who are not currently included under the regulations promulgated pursuant to this chapter. Providers shall, as feasible, utilize staffing patterns which reflect the linguistic and cultural features of the populations they serve.

(f) The California Medical Assistance Program and the Maternal and Child Health Branch of the State Department of Health Services in consultation with the California Conference of Local Health Officers shall establish standards for health care providers and for services rendered pursuant to this subdivision.

(g) The department shall assist local health departments to establish a community perinatal program whose reponsibilities may include certifying and monitoring providers of comprehensive perinatal services. The department shall provide the local health departments with technical assistance for the purpose of implementing the community perinatal program. The department shall, to the extent feasible, and to the extent funding for administrative costs is available, utilize local health departments in the administration of the perinatal program. If such funds are not available, the department shall use alternative means to implement the community perinatal program.

(h) It is the intent of the Legislature that the department shall establish a method for reimbursement of comprehensive perinatal providers which shall include a fee for coordinating services and which shall be sufficient to cover reasonable costs for the provision of comprehensive perinatal services. The department may utilize fees for service, capitated fees, or global fees to reimburse providers. However, if capitated or global fees are established, the department shall set minimum standards for the provision of services including, but not limited to, the number of prenatal visits and the amount and type of psychosocial, nutritional, and educational services patients shall receive. The department shall establish financial incentives of at least one hundred fifty dollars ($150) for initiating prenatal care in the first trimester and for prenatal visits in excess of nine visits.

Notwithstanding the type of reimbursement system, the comprehensive perinatal provider shall not be financially at risk for the provision of inpatient services. The provision of inpatient services which are not related to perinatal care shall not be subject to of this section. Inpatient services related to services pursuant to this subdivision shall be reimbursed, in accordance with Section 14081, 14086, 14087, or 14087.2, whichever is applicable.

(i) The department shall develop systems for monitoring and oversight of the comprehensive perinatal services provided in this section. The monitoring shall include, but shall not be limited to, collection of information using the perinatal data form.

(j) Participation for services provided pursuant to this section shall be voluntary. The department shall adopt patient rights safeguards for recipients of the comprehensive perinatal services.

SEC. 12. Section 11 of this bill incorporates amendments to Section 14134.5 of the Welfare and Institutions Code proposed by both this bill and AB 351. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1988, (2) each bill amends Section 14134.5 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 351, in which case Section 10 of this bill shall not become operative.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1374

An act to add Article 9.6 (commencing with Section 25209) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987]

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

SECTION 1. Article 9.6 (commencing with Section 25209) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 9.6. Land Treatment Units

25209. The Legislature finds and declares as follows:

(a) Hazardous waste discharged into land treatment units may migrate beyond the treatment zone of the land treatment unit and thereby threaten the public health and the environment and pose a serious threat to the quality of the waters of this state.

(b) With the exception of land treatment units, all major forms of land disposal units are required by law to be equipped with liner and leachate collection and removal systems to ensure sufficient protection of the public health and safety and the environment and to protect the quality of the waters of this state. It is in the public interest to extend these requirements to include land treatment units.

(c) It is the intent of the Legislature to establish a uniform and workable procedure for implementing requirements for liner and

leachate collection and removal systems in all existing land treatment units, and replacements and lateral expansions of existing and new land treatment units, and to ensure that the vadose zone and groundwater beneath all land treatment units is adequately monitored to detect the presence of any contamination. Land treatment units in operation in this state must be made safe, or closed if necessary, to protect public health and safety and the environment, including the waters of the state.

25209.1. For purposes of this article, the following definitions apply:

(a) "Constituent" shall have the meaning specified in subdivision (e) of Section 25208.2.

(b) "Discharge" means to place, dispose, or store hazardous wastes in a land treatment unit.

(c) "Facility" shall have the meaning specified in subdivision (h) of Section 25208.2.

(d) "Hazardous waste" means a hazardous waste, as defined in Section 25117.

(e) "Land treatment unit" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface so that hazardous constituents are degraded, transformed, or immobilized within the treatment zone.

(f) "Pollution" has the same meaning as specified in Section 13050 of the Water Code.

(g) "Potential source of drinking water" shall have the meaning specified in subdivision (s) of Section 25208.2.

(h) "Treatment zone" means the portion of a land treatment unit including the soil surface, within which hazardous constituents are degraded, transformed, or immobilized. A treatment zone may not extend more than five feet below the initial surface and the base of the treatment zone shall be a minimum of five feet above the highest anticipated elevation of underlying groundwater.

(i) "Vadose zone" shall have the meaning specified in subdivision (y) of Section 25208.2. However, for purposes of this article, the vadose zone shall not include the treatment zone.

(j) "Waste management unit" shall have the meaning specified in subdivision (z) of Section 25208.2.

25209.2. (a) Notwithstanding any other provision of law, unless granted a variance pursuant to subdivision (b), or exempted pursuant to Section 25209.6, no person shall discharge hazardous waste into a new land treatment unit at a new or existing facility, any land treatment unit which replaces an existing land treatment unit, or any laterally expanded portion of an existing land treatment unit that has not been equipped with liners, a leachate collection and removal system, and a groundwater monitoring system which satisfy the requirements of Section 25209.5.

(b) The department may grant a variance from the requirements of subdivision (a) and from the requirements of Section 25209.3 if the owner or operator demonstrates to the department and the

department finds the following:

(1) If the land treatment unit is an existing land treatment unit, no hazardous waste constituents have migrated from the treatment zone of the land treatment unit into the vadose zone or into the waters of the state in concentrations which pollute or threaten to pollute the vadose zone or the waters of the state. In making this demonstration the owner or operator shall take a sufficient number of core samples in, beneath, and surrounding the treatment zone of the land treatment unit to characterize the chemical constituents in the treatment zone, in the immediate area of the vadose zone surrounding the treatment zone, and in the area of the vadose zone beneath the treatment zone and shall submit groundwater monitoring data sufficient in scope to demonstrate that there has been no migration of hazardous constituents into the vadose zone or into the waters of the state in concentrations which pollute or threaten to pollute the vadose zone or the waters of the state. The owner or operator, as an alternative to taking these core samples, may use the data obtained from any land treatment demonstration required by the department before issuing a hazardous waste facilities permit pursuant to Section 25200, if the data was obtained not more than two years prior to the application for the variance and is sufficient in scope to demonstrate that there has been no migration of hazardous constituents into the vadose zone or into the waters of the state in concentrations which pollute or threaten to pollute the vadose zone or the waters of the state.

(2) Notwithstanding the date that the land treatment unit commences operations, the design and operating practices will prevent the migration of hazardous waste constituents from the treatment zone of the land treatment unit into the vadose zone or into the waters of the state in concentrations which pollute or threaten to pollute the vadose zone or the waters of this state.

(3) Notwithstanding the date that the land treatment unit commences operations, the design and operating practices provide for rapid detection and removal or remediation of any hazardous waste constituents that migrate from the treatment zone of the land treatment unit into the vadose zone or into the waters of the state in concentrations which pollute or threaten to pollute the vadose zone or the waters of the state.

(c) The department may renew a variance only in those cases where an owner or operator can demonstrate, and the department finds, both of the following:

(1) No hazardous waste constituents have migrated from the treatment zone of the land treatment unit into the vadose zone or into the waters of the state in concentrations which pollute or threaten to pollute the vadose zone or the waters of the state.

(2) Continuing the operation of the land treatment unit does not pose a significant potential of hazardous waste constituents migrating from the land treatment unit into the vadose zone or into the waters of the state in concentrations which pollute or threaten

to pollute the vadose zone or the waters of the state.

In making the demonstration for the renewal of a variance pursuant to this subdivision, the owner or operator may use field tests, laboratory analyses, or, operating data.

(d) A variance, or a renewal of a variance, may be issued for a period not to exceed three years.

(e) Except for the exemption from vadose zone monitoring requirements specified in Section 25209.5, neither the requirements of this article nor the variance provisions of subdivision (b) shall relieve the owner or operator from responsibility to comply with all other existing laws and regulations pertinent to land treatment units.

25209.3. Notwithstanding any other provision of law, after January 1, 1990, unless granted a variance pursuant to subdivision (b) of Section 25209.2, or exempted pursuant to Section 25209.6, no person shall discharge hazardous waste into a land treatment unit which has not been equipped with liners, a leachate collection and removal system, and a groundwater monitoring system which satisfy the requirements of Section 25209.5.

25209.4. (a) Except as provided in Section 25209.6, no person shall place or dispose of hazardous waste in a land treatment unit if any of the following conditions exist:

(1) Hazardous waste constituents have migrated from the land treatment unit into the vadose zone beneath or surrounding the treatment zone or in the waters beneath the treatment zone in concentrations which pollute or threaten to pollute the vadose zone or the waters of the state.

(2) There is evidence that a hazardous constituent in the waste discharged to the land treatment unit has not been or will not be completely degraded, transformed, or immobilized in the treatment zone.

(3) The land treatment unit is not equipped with liners, leachate collection and removal systems, and a groundwater monitoring system that satisfy the requirements of Section 25209.5 and there is a significant potential for hazardous waste constituents to migrate from the land treatment unit into a potential source of drinking water.

(b) The owner or operator of a land treatment unit shall do all of the following:

(1) Periodically, at the request of the department, and at least annually, submit information the department may require to assure that the conditions set forth in paragraph (1) or (2) of subdivision (a) are not present. The information to be submitted to the department shall include, but is not limited to, a sufficient number of soil core samples in, beneath, and surrounding the treatment zone of the land treatment unit to detect any hazardous waste constituents in concentrations which pollute, or threaten to pollute, the vadose zone or the waters of the state to demonstrate compliance with subdivision (a).

(2) Within 72 hours of detecting and confirming the existence of

either of the conditions identified in paragraph (1) or (2) of subdivision (a), or the presence of factors that render the owner or operator unable to continue satisfying the variance requirements of subdivision (b) of Section 25209.2, report to the department describing the full extent of the owner's or operator's findings.

(c) Upon receiving notice pursuant to paragraph (2) of subdivision (b), or upon the independent confirmation by the department, the department shall order the owner or operator to cease operating the land treatment unit. The owner or operator shall not resume operating the land treatment unit and shall close the land treatment unit unless one of the following actions is taken:

(1) The owner or operator completes appropriate removal and remedial actions to the satisfaction of the department and the owner or operator submits to the department, and the department approves, an application for a permit or variance modification to modify the operating practices at the facility to maximize the success of degradation, immobilization, or transformation processes in the treatment zone, if the owner or operator has not previously submitted an application for a permit or variance modification pursuant to this paragraph.

(2) The owner or operator completes appropriate removal and remedial actions and equips the land treatment unit with liners, leachate collection and removal systems, and a groundwater monitoring system that satisfy the requirements of Section 25209.5, if the land treatment unit has not already been equipped with these systems.

(d) All actions taken by an owner or operator pursuant to paragraph (1) or (2) of subdivision (c) shall be completed within a reasonable time, but not longer than 18 months after the department receives notice pursuant to subdivision (c). If the actions are not completed within this time period, the land treatment unit shall be closed, unless granted an extension by the department due to exceptional circumstances beyond the control of the owner and operator.

25209.5. The liner, leachate collection and removal, and groundwater monitoring systems required by Sections 25209.2, 25209.3, and 25209.4 shall be designed, constructed, and operated according to department and State Water Resources Control Board regulations and standards for liner, leachate collection and removal, and groundwater monitoring systems for class I hazardous waste landfills. Owners or operators of land treatment units which are equipped with liners, leachate collection and removal systems, and a groundwater monitoring system that satisfy the requirements of this section shall not be required to perform vadose zone monitoring.

25209.6. Land treatment of contaminated soil resulting from a removal and remedial action at any hazardous substance release site is exempt from the requirements of Sections 25209.2, 25209.3, and 25209.4, if all of the following apply:

(a) The land treatment does not pose a threat to public health or

safety or the environment.

(b) The land treatment is conducted pursuant to a remedial action plan approved by the department or a cleanup and abatement order issued by a regional water quality control board.

(c) The land treatment is not conducted at an offsite commercial hazardous waste facility.

(d) The land treatment is used only for purposes of removal and remedial action and, upon completion of the land treatment portion of the removal and remedial action, the land treatment unit is closed.

25209.7. (a) Every owner or operator of a land treatment unit subject to this article shall pay an annual fee to the department which shall be equivalent to 2 percent of the land disposal fee due under Section 25205.4. This fee shall be in addition to the annual hazardous waste facility fee and shall be due at the same time as the facility fee.

(b) An owner or operator of a land treatment unit who applies for a variance pursuant to Section 25209.2 shall pay a processing fee which shall be equivalent to 2 percent of the land disposal fee due under Section 25205.4. This fee shall be due at the time the variance is requested.

(c) The department may, by regulation, increase or decrease the amount of the fees specified in subdivisions (a) and (b) if the department finds that the amounts charged do not reflect the cost of providing services under this article.

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 1375

An act to amend Sections 11017.6, 11342.1, 11343, 11343.5, 11344, 11344.1, 11344.2, 11344.4, 11344.6, 11344.7, 11346.1, 11346.2, 11346.4, 11346.5, 11346.53, 11346.55, 11346.7, 11346.8, 11347.3, 11347.5, 11349.1, 11349.3, 11349.4, 11349.5, 11349.6, 11350.3, 11351, and 11356 of, to amend and renumber Section 11349.9 of, to add Section 11340.15 to, and to repeal Sections 11346.6, 11349.2, 11349.7, and 11349.8 of, the Government Code, relating to administrative regulations.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 11017.6 of the Government Code is amended to read:

11017.6. Every state agency responsible for implementing a

statute which requires interpretation pursuant to the Administrative Procedure Act shall prepare, by January 30 of each year, a rulemaking calendar for that year. The rulemaking calendar shall be prepared in accordance with a format specified by the office, approved by the head of the department or, if the rulemaking agency is an entity other than a department, by the officer, board, commission, or other entity which has been delegated the authority to adopt, amend, or repeal regulations, and published in the California Regulatory Notice Register. The preparation of the rulemaking calendar shall not preclude adoption of a regulation that is not included in the rulemaking calendar but which is required by circumstances not reasonably anticipated at the time that the rulemaking calendar is prepared.

The rulemaking calendar shall consist of two schedules as follows:

(a) A schedule which describes the rulemaking necessary to implement statutes enacted during the previous year. The schedule shall include the projected dates on which the agency plans to:

(1) Publish the notice of proposed action for each rulemaking.

(2) Schedule a public hearing if one is required or requested.

(3) Adopt the regulations.

(4) Submit the regulations to the office for review.

In addition, the schedule shall identify the organizational unit within the agency which is responsible for each rulemaking and the name and telephone number of the agency officer to whom inquiries concerning the rulemaking may be directed.

(b) A schedule which describes all other rulemaking the agency plans to propose, to implement or interpret other statutes enacted during years prior to the previous year. The schedule shall contain the same information concerning rulemaking as is required in the schedule prepared under subdivision (a), and a report on the status of all uncompleted rulemaking that was described on previous calendars.

In addition to publishing the rulemaking calendar in the California Regulatory Notice Register, state agencies subject to this section shall send the calendar to the author of each statute enacted during the previous year for which the agency has responsibility, together with an explanation of the priority the agency has given the statute in the rulemaking calendar.

SEC. 1.5. Section 11340.15 is added to the Government Code, to read:

11340.15. The office, at the request of any standing, select, or joint committee of the Legislature, shall initiate a priority review of any regulation, group of regulations, or series of regulations which the committee believes does not meet the standards set forth in Section 11349.1.

The office shall notify interested persons and shall publish in the California Regulatory Notice Register that a priority review has been requested, shall consider the written comments submitted by interested persons, the information contained in the rulemaking

record, if any, and shall complete each priority review made pursuant to this subdivision within 90 calendar days of the receipt of the committee's written request. During the period of any priority review made pursuant to this section, all information available to the office relating to the priority review shall be made available to the public. In the event that the office determines that a regulation does not meet the standards set forth in Section 11349.1, it shall order the adopting agency to show cause why the regulation should not be repealed and shall proceed to seek repeal of the regulation as provided by this section in accordance with the following:

(a) In the event it determines that any of the regulations subject to the review do not meet the standards set forth in Section 11349.1, the office shall within 15 days of the determination order the adopting agency to show cause why the regulation should not be repealed. In issuing the order, the office shall specify in writing the reasons for its determination that the regulation does not meet the standards set forth in Section 11349.1. The reasons for its determination shall be made available to the public. The office shall also publish its order and the reasons therefor in the California Regulatory Notice Register. In the case of a regulation for which no, or inadequate information relating to its necessity can be furnished by the adopting agency, the order shall specify the information which the office requires to make its determination.

(b) No later than 60 days following receipt of an order to show cause why a regulation should not be repealed, the agency shall respond in writing to the office. Upon written application by the agency, the office may extend the time for an additional 30 days.

(c) The office shall review and consider all information submitted by the agency in a timely response to the order to show cause why the regulation should not be repealed, and determine whether the regulation meets the standards set forth in Section 11349.1. The office shall make this determination within 60 days of receipt of an agency's response to the order to show cause. If the office does not make a determination within 60 days of receipt of an agency's response to the order to show cause, the regulation shall be deemed to meet the standards set forth in subdivision (a) of Section 11349.1. In making this determination, the office shall also review any written comments submitted to it by the public within 30 days of the publication of the order to show cause in the California Regulatory Notice Register. During the period of review and consideration, the information available to the office relating to each regulation for which the office has issued an order to show cause shall be made available to the public. The office shall notify the adopting agency within two working days of the receipt of information submitted by the public regarding a regulation for which an order to show cause has been issued. If the office determines that a regulation fails to meet the standards, it shall prepare a statement specifying the reasons for its determination. The statement shall be delivered to the adopting agency, the Legislature, and the Governor and shall be made

available to the public and the courts. Thirty days after delivery of the statement required by this subdivision the office shall prepare an order of repeal of the regulation and shall transmit it to the Secretary of State for filing.

(d) The Governor, within 30 days after the office has delivered the statement specifying the reasons for its decision to repeal, as required by subdivision (c), may overrule the decision of the office ordering the repeal of a regulation. The regulation shall then remain in full force and effect. Notice of the Governor's action and the reasons therefor shall be published in the California Regulatory Notice Register.

The Governor shall transmit to the rules committee of each house of the Legislature a statement of reasons for overruling the decision of the office, plus any other information that may be requested by either of the rules committees.

(e) In the event that the office orders the repeal of a regulation, it shall publish the order and the reasons therefor in the California Regulatory Code Supplement.

SEC. 2. Section 11342.1 of the Government Code is amended to read:

11342.1. Except as provided in Section 11342.4, nothing in this chapter confers authority upon or augments the authority of any state agency to adopt, administer, or enforce any regulation. Each regulation adopted, to be effective, shall be within the scope of authority conferred and in accordance with standards prescribed by other provisions of law.

SEC. 3. Section 11343 of the Government Code is amended to read:

11343. Every state agency shall:

(a) Transmit to the office for filing with the Secretary of State a certified copy of every regulation adopted or amended by it except one which:

(1) Establishes or fixes rates, prices, or tariffs.

(2) Relates to the use of public works, including streets and highways, when the effect of the regulation is indicated to the public by means of signs or signals or when the order determines uniform standards and specifications for official traffic control devices pursuant to Section 21400 of the Vehicle Code.

(3) Is directed to a specifically named person or to a group of persons and does not apply generally throughout the state.

(4) Is a building standard, as defined in Section 18909 of the Health and Safety Code.

(b) Transmit to the office for filing with the Secretary of State a certified copy of every order of repeal of a regulation required to be filed under subdivision (a).

(c) Deliver to the office, at the time of transmittal for filing a regulation or order of repeal six duplicate copies of the regulation or order of repeal, together with a citation of the authority pursuant to which it or any part thereof was adopted.

(d) Deliver to the office a copy of the notice of proposed action required by Section 11346.4.

(e) Transmit to the State Building Standards Commission for approval a certified copy of every regulation, or order of repeal of a regulation, that is a building standard together with a citation of authority pursuant to which it or any part thereof was adopted, a copy of the notice of proposed action required by Section 11346.4, and any other records prescribed by the State Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code).

(f) Whenever a certification is required by this section, it shall be made by the head of the state agency or his or her designee which is adopting, amending, or repealing the regulation and the certification and delegation shall be in writing.

SEC. 3.2. Section 11343.5 of the Government Code is amended to read:

11343.5. Within 10 days from the receipt of printed copies of the California Code of Regulations or of the California Regulatory Code Supplement from the State Printing Office, the office shall file one copy of the particular issue of the code or supplement in the office of the county clerk of each county in this state, or if the authority to accept filings on his or her behalf has been delegated by the county clerk of any county pursuant to Section 26803.5, in the office of the person to whom that authority has been delegated.

SEC. 3.5. Section 11344 of the Government Code is amended to read:

11344. The office shall do all of the following:

(a) Provide for the official compilation, printing, and publication of adoption, amendment, or repeal of regulations, which shall be known as the California Code of Regulations.

(b) Provide for the compilation, printing, and publication of weekly updates of the California Code of Regulations. This publication shall be known as the California Regulatory Code Supplement and shall contain the following:

(1) Amendments to the code.

(2) A summary of all regulations filed with the Secretary of State in the previous week.

(3) All regulation decisions issued in the previous week detailing the reasons for disapproval of a regulation, the reasons for not filing an emergency regulation and the reasons for repealing an emergency regulation. The California Regulatory Code Supplement shall also include a quarterly index of regulation decisions.

(4) The Governor's action in reviewing the disapprovals of the office, the decisions to repeal, the agency's request for review, the office's response thereto, and the decisions of the Governor's office, as required by Section 11340.15.

(c) Provide for the publication dates and manner and form in which regulations shall be printed and distributed and ensure that regulations are available in printed form at the earliest practicable

date after filing with the Secretary of State.

(d) Ensure that each regulation is printed together with a reference to the statutory authority pursuant to which it was enacted and the specific statute or other provision of law which the regulation is implementing, interpreting, or making specific.

SEC. 4. Section 11344.1 of the Government Code is amended to read:

11344.1. The office shall do all of the following:

(a) Provide for the publication of the California Regulatory Notice Register, which shall be an official publication of the State of California and which shall contain the following:

(1) Notices of proposed action prepared by regulatory agencies, subject to the notice requirements of this chapter, and which have been approved by the office.

(2) A list of determinations pursuant to Section 11347.5.

(b) Establish the publication dates and manner and form in which the California Regulatory Notice Register shall be prepared and published and insure that it is published and distributed in a timely manner to the presiding officer and rules committee of each house of the Legislature and to all subscribers.

SEC. 4.5. Section 11344.2 of the Government Code is amended to read:

11344.2. The office shall supply a complete set of the California Code of Regulations, and of the California Regulatory Code Supplement in the form provided by the State Printer to the county clerk of any county or to the delegatee of the county clerk pursuant to Section 26803.5, provided the director makes the following two determinations:

(a) The county clerk or the delegatee of the county clerk pursuant to Section 26803.5 is maintaining the code and supplement in complete and current condition in a place and at times convenient to the public.

(b) The California Code of Regulations and California Regulatory Code Supplement are not otherwise reasonably available to the public in the community where the county clerk or the delegatee of the county clerk pursuant to Section 26803.5 would normally maintain the code and supplements by distribution to libraries pursuant to Article 6 (commencing with Section 14900) of Chapter 7 of Part 5.5.

SEC. 5. Section 11344.4 of the Government Code is amended to read:

11344.4. As prepared by the State Printing Office, the California Code of Regulations and the California Regulatory Code Supplement shall be sold at such prices as will reimburse the state for all costs incurred for printing, publication and distribution.

The "California Regulatory Notice Register" shall be sold by the Office of Administrative Law at a maximum subscription rate of not more than fifty dollars ($50) per year.

All money received by the state from the sale of the California

Code of Regulations and the California Regulatory Code Supplement shall be deposited in the treasury and credited to the General Fund, except that, where applicable, an amount necessary to cover the distribution costs shall be credited to the fund from which such costs have been paid.

SEC. 6. Section 11344.6 of the Government Code is amended to read:

11344.6. The publication of a regulation in the California Code of Regulations or California Regulatory Code Supplement raises a rebuttable presumption that the text of the regulation as so published is the text of the regulation adopted.

The courts shall take judicial notice of the contents of each regulation which is printed or which is incorporated by appropriate reference into the California Code of Regulations as compiled by the office.

The courts shall also take judicial notice of the repeal of a regulation as published in the California Regulatory Code Supplement compiled by the office.

SEC. 6.5. Section 11344.7 of the Government Code is amended to read:

11344.7. Nothing in this chapter precludes any person or state agency from purchasing copies of the California Code of Regulations, the California Regulatory Code Supplement, or the California Regulatory Notice Register or of any unit of either, nor from printing special editions of any such units and distributing the same. However, where the purchase and printing is by a state agency, the state agency shall do so at the cost or at less than the cost to the agency if it is authorized to do so by other provisions of law.

SEC. 7. Section 11346.1 of the Government Code is amended to read:

11346.1. (a) This article does not apply to any regulation not required to be filed with the Secretary of State under this chapter, and only this section and Sections 11346.2 and 11349.6 apply to an emergency regulation adopted pursuant to subdivision (b), or to any regulation adopted under Section 8054 or 3373 of the Financial Code.

(b) Except as provided in subdivision (c), if a state agency makes a finding that the adoption of a regulation or order of repeal is necessary for the immediate preservation of the public peace, health and safety or general welfare, the regulation or order of repeal may be adopted as an emergency regulation or order of repeal.

Any finding of an emergency shall include a written statement which contains the information required by paragraphs (2) to (6), inclusive, of subdivision (a) of Section 11346.5 and a description of the specific facts showing the need for immediate action. The enactment of an urgency statute shall not, in and of itself, constitute a need for immediate action.

The statement and the regulation or order of repeal shall be filed immediately with the office.

(c) (1) Notwithstanding any other provision of law, no board or

commission shall have the power to adopt an emergency regulation to interpret, implement, or make specific provisions of the law relating to campaign disclosure except by a unanimous vote of all members of such board or commission present at the proceeding at which such regulation is adopted.

(2) Notwithstanding any other provision of law, no emergency regulation which is a building standard, as defined in Section 18909 of the Health and Safety Code, shall be filed, nor shall such building standard be effective, unless such building standards are submitted to the State Building Standards Commission, and are approved and filed pursuant to the provisions of Sections 18937 and 18938 of the Health and Safety Code.

(d) The emergency regulation or order of repeal shall become effective upon filing or upon any later date specified by the state agency in a written instrument filed with, or as a part of, the regulation or order of repeal.

(e) No regulation, amendment, or order of repeal adopted as an emergency regulatory action shall remain in effect more than 120 days unless the adopting agency has complied with Sections 11346.4 to 11346.8, inclusive, prior to the adoption of the emergency regulatory action, or has, within the 120-day period, completed the regulation adoption process by formally adopting the emergency regulation, amendment, or order of repeal or any amendments thereto, pursuant to this chapter. The adopting agency, prior to the expiration of the 120-day period, shall transmit to the office for filing with the Secretary of State the adopted regulation, amendment, or order of repeal, the rulemaking file, and a certification that either Sections 11346.4 to 11346.8, inclusive, were complied with prior to the emergency regulatory action, or that there was compliance with this section within the 120-day period.

(f) In the event an emergency amendment or order of repeal is filed and the adopting agency fails to comply with subdivision (e), the regulation as it existed prior to such emergency amendment or order of repeal shall thereupon become effective and after notice to the adopting agency by the office shall be reprinted in the California Code of Regulations.

(g) In the event a regulation is originally adopted and filed as an emergency and the adopting agency fails to comply with subdivision (e), such failure shall constitute a repeal thereof and after notice to the adopting agency by the office, shall be deleted.

(h) A regulation originally adopted as an emergency regulation, or an emergency regulation substantially equivalent thereto which is readopted as an emergency regulation, shall not be filed with the Secretary of State as an emergency regulation except with the express prior approval of the director of the office.

SEC. 8. Section 11346.2 of the Government Code is amended to read:

11346.2. A regulation or an order of repeal required to be filed with the Secretary of State shall become effective on the 30th day

after the date of filing unless:

(a) Otherwise specifically provided by the statute pursuant to which the regulation or order of repeal was adopted, in which event it becomes effective on the day prescribed by such statute.

(b) It is a regulation adopted under Section 8054 or 3373 of the Financial Code, in which event it shall become effective upon filing or upon any later date specified by the state agency in a written instrument filed with, or as part of, the regulation or order of repeal.

(c) A later date is prescribed by the state agency in a written instrument filed with, or as part of, the regulation or order of repeal.

(d) The agency makes a written request to the office demonstrating good cause for an earlier effective date, in which case the office may prescribe an earlier date.

SEC. 9. Section 11346.4 of the Government Code is amended to read:

11346.4. (a) At least 45 days prior to the hearing and close of the public comment period on the adoption, amendment, or repeal of a regulation, notice of the proposed action shall be:

(1) Mailed to every person who has filed a request for notice of regulatory actions with the state agency.

(2) In cases in which the state agency is within a state department, mailed or delivered to the director of the department.

(3) Mailed to a representative number of small business enterprises or their representatives which have been identified as being affected by the proposed action.

(4) When appropriate in the judgment of the state agency, mailed to any person or group of persons whom the agency believes to be interested in the proposed action and published in the form and manner as the state agency shall prescribe.

(5) Published in the California Regulatory Notice Register as prepared by the office for each state agency's notice of regulatory action.

(b) The effective period of a notice issued pursuant to this section shall not exceed one year from the date thereof. If the adoption, amendment, or repeal of a regulation proposed in the notice is not completed and transmitted to the office within the period of one year, a notice of the proposed action shall again be issued pursuant to the provisions of this article.

(c) Once the adoption, amendment, or repeal is completed and approved by the office, no further adoption, amendment, or repeal to the noticed regulation shall be made without subsequent notice being given.

(d) The office may refuse to publish a notice submitted to it if the agency has failed to comply with this article.

(e) The office shall make the California Regulatory Notice Register available to the public and state agencies at a nominal cost which is consistent with a policy of encouraging the widest possible notice distribution to interested persons.

(f) Where the form or manner of notice is prescribed by statute

in any particular case, in addition to filing and mailing notice as required by this section, the notice shall be published, posted, mailed, filed, or otherwise publicized as prescribed by that statute. The failure to mail notice to any person as provided in this section shall not invalidate any action taken by a state agency pursuant to this article. Other provisions of this article shall not apply to the publication of newspaper notices under this section.

SEC. 10. Section 11346.5 of the Government Code is amended to read:

11346.5. (a) The notice of proposed adoption, amendment, or repeal of a regulation shall include:

(1) A statement of the time, place, and nature of proceedings for adoption, amendment, or repeal of the regulation.

(2) Reference to the authority under which the regulation is proposed and a reference to the particular code sections or other provisions of law which are being implemented, interpreted, or made specific.

(3) An informative digest containing a concise and clear summary of existing laws and regulations, if any, related directly to the proposed action and the effect of the proposed action. The informative digest shall be drafted in a format similar to the Legislative Counsel's digest on legislative bills. If the proposed action differs substantially from an existing comparable federal regulation or statute, the informative digest shall also include a brief description of the significant differences and the full citation of the federal regulations or statutes.

(4) Any other matters as are prescribed by statute applicable to the specific state agency or to any specific regulation or class of regulations.

(5) A determination as to whether the regulation imposes a mandate on local agencies or school districts and, if so, whether the mandate requires state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4.

(6) An estimate, prepared in accordance with instructions adopted by the Department of Finance, of the cost or savings to any state agency, the cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4, other nondiscretionary cost or savings imposed on local agencies, and the cost or savings in federal funding to the state.

For purposes of this section, "cost or savings" means additional costs or savings, both direct and indirect, which a public agency necessarily incurs in reasonable compliance with regulations.

(7) A statement that the adopting agency must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

(8) The name and telephone number of the agency officer to

whom inquiries concerning the proposed administrative action may be directed.

(9) The date by which comments submitted in writing must be received to present statements, arguments, or contentions in writing relating to the proposed action in order for them to be considered by the state agency before it adopts, amends, or repeals a regulation.

(10) Reference to the fact that the agency proposing the action has prepared a statement of the reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action, pursuant to subdivision (b).

(11) A statement that if a public hearing is not scheduled, any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Section 11346.8.

(12) A statement indicating that the full text of a regulation changed pursuant to Section 11346.8 will be available for at least 15 days prior to the date on which the agency adopts, amends, or repeals the resulting regulation.

(b) The agency officer designated in paragraph (8) of subdivision (a) shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations. The officer shall also make available to the public upon request the location of public records, including reports, documentation, and other materials, related to the proposed action.

(c) This section shall not be construed in any manner which results in the invalidation of a regulation because of the alleged inadequacy of the notice content or the summary or cost estimates if there has been substantial compliance with those requirements.

SEC. 11. Section 11346.53 of the Government Code is amended to read:

11346.53. (a) If a state agency in proposing to adopt or amend any administrative regulation, determines that such action may have a significant adverse economic impact on small business, it shall include the following information in the notice of proposed action:

(1) Identification of the types of small businesses that would be affected.

(2) A description of the projected reporting, recordkeeping and other compliance requirements that would result from the proposed action.

(3) The following statement: "The (name of agency) finds that the (adoption/amendment) of this regulation may have a significant adverse economic impact on small businesses. The (name of agency) (has/has not) considered proposed alternatives that would lessen any adverse economic impact on small business and invites you to submit such proposals. Submissions may include the following considerations:

"(A) The establishment of differing compliance or reporting

requirements or timetables which take into account the resources available to small businesses.

"(B) Consolidation or simplification of compliance and reporting requirements for small businesses.

"(C) The use of performance standards rather than prescriptive standards.

"(D) Exemption or partial exemption from the regulatory requirements for small businesses."

(b) The state agency proposing to adopt or amend any regulation shall refer in the notice to any studies or relevant data which were relied upon in making the determination that the regulation has no adverse impact.

(c) If a state agency in adopting or amending any administrative regulation determines that the action will not have a significant adverse economic impact on small business, it shall make a declaration to that effect in the notice of proposed action.

(d) An agency's determination and declaration that a proposed regulation may have or will not have a significant, adverse impact on small businesses shall not be grounds for the office to refuse to publish the notice of proposed action.

(e) A state agency shall also include in the notice of proposed action a statement of the potential cost impact of the proposed action on private persons or businesses directly affected, other than small businesses as defined in subdivision (e) of Section 11342, as considered by the agency during the regulatory development process. If the cost impact of the action is expected to be insignificant, or was not considered in the development process, the agency shall so indicate.

For purposes of this subdivision "cost impact" means the reasonable range of costs, or a description of the type and extent of costs, direct or indirect, which a representative private person or business necessarily incurs in reasonable compliance with the proposed action.

(f) No administrative regulation which requires a report shall apply to small businesses, as defined in subdivision (e) of Section 11342, unless the state agency adopting the regulation makes a finding that it is necessary for the health, safety, or welfare of the people of the state that the regulation apply to small businesses.

This subdivision applies only to administrative regulations adopted on or after January 1, 1988.

SEC. 12. Section 11346.55 of the Government Code is amended to read:

11346.55. (a) If a state agency, in adopting, amending, or repealing any administrative regulation, determines that the action would have a significant effect on housing costs, it shall note that fact in the notice of proposed action provided for pursuant to Section 11346.5. In addition, the agency officer designated in paragraph (8) of subdivision (a) of Section 11346.5, shall make available to the public, upon request, the agency's evaluation, if any, of the effect of

the proposed regulatory action on housing costs.

(b) At the time a state agency takes regulatory action which it has determined would significantly increase housing costs, it shall consider revisions to the proposed regulatory action that would have the effect of offsetting the increase in housing costs. If no offsetting action is taken, the agency shall explain in writing the reasons for its decision.

(c) This section shall not be construed in any manner which results in the invalidation of a regulation because of the alleged inadequacy or inaccuracy of the housing cost estimates, if there has been substantial compliance with the requirements of this chapter.

SEC. 13. Section 11346.6 of the Government Code is repealed.

SEC. 14. Section 11346.7 of the Government Code is amended to read:

11346.7. Every agency subject to this chapter shall:

(a) Prepare, submit to the office with the notice of the proposed action, and make available to the public upon request, a copy of the express terms of the proposed action as described in subdivision (b) of Section 11346.5, a list of the small business enterprises or their representatives to whom the notice of adoption, amendment, or repeal of a regulation will be mailed and an initial statement of reasons for proposing the adoption, amendment, or repeal of a regulation. The statement shall include, but not be limited to, all of the following:

(1) A description of the public problem, administrative requirement, or other condition or circumstance that each adoption, amendment, or repeal is intended to address.

(2) A statement of the specific purpose of each adoption, amendment, or repeal and the rationale for the determination by the agency that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose for which it is proposed.

(3) An identification of each technical, theoretical, and empirical study, report, or similar document, if any, on which the agency is relying in proposing the adoption, amendment, or repeal of a regulation.

(4) A description of any alternatives the agency has identified that would lessen any adverse impact on small businesses. It is not the intent of this subdivision to require the agency to artificially construct alternatives or to justify why it has not identified alternatives.

(b) Prepare and submit to the office with the adopted regulation a final statement of reasons which shall include all of the following:

(1) An update of the information contained in the initial statement of reasons. If the update identifies any data or any technical, theoretical or empirical study, report, or similar document on which the agency is relying in proposing the adoption or amendment of a regulation which was not identified in the initial statement of reasons, or which was otherwise not identified or made available for public review prior to the close of the public comment

period, the agency shall comply with subdivision (d) of Section 11346.8.

(2) A determination as to whether the regulation imposes a mandate on local agencies or school districts. If the determination is that the regulation does contain a local mandate, the agency shall state whether the mandate is reimbursable pursuant to Part 7 (commencing with Section 17500) of Division 4. If the agency finds that the mandate is not reimbursable, it shall state the reasons for that finding.

(3) A summary of each objection or recommendation made regarding the specific adoption, amendment, or repeal proposed, together with an explanation of how the proposed action has been changed to accommodate each objection or recommendation, or the reasons for making no change. This requirement applies only to objections or recommendations specifically directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the action.

(4) A determination with supporting information that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the adopted regulation.

(5) An explanation setting forth the reasons for rejecting any proposed alternatives that would lessen the adverse economic impact on small businesses.

(c) Prepare and submit to the office with the adopted regulation an updated informative digest containing a clear and concise summary of the immediately preceding laws and regulations, if any, relating directly to the adopted, amended, or repealed regulation and the effect of the adopted, amended, or repealed regulation. The informative digest shall be drafted in a format similar to the Legislative Counsel's Digest on legislative bills.

(d) A state agency which adopts or amends a regulation mandated by federal law or regulations, the provisions of which are identical to a previously adopted or amended federal regulation, shall be deemed to have complied with this section if a statement to the effect that a federally mandated regulation or amendment to a regulation is being proposed, together with a citation to where an explanation of the provisions of the regulation can be found, is included in the notice of proposed adoption or amendment prepared pursuant to Section 11346.5. However, the agency shall comply fully with this chapter with respect to any provisions in the regulation which the agency proposes to adopt or amend which are different from the corresponding provisions of the federal regulation.

SEC. 15. Section 11346.8 of the Government Code is amended to read:

11346.8. (a) If a public hearing is held, statements, arguments, or contentions, either oral or in writing, or both, shall be permitted. If a public hearing is not scheduled, the state agency shall, consistent

with Section 11346.4, afford any interested person or his or her duly authorized representative, the opportunity to present statements, arguments or contentions in writing. In addition, a public hearing shall be held if, no later than 15 days prior to the close of the written comment period, an interested person or his or her duly authorized representative submits in writing to the state agency, a request to hold a public hearing. The state agency shall, to the extent practicable, provide notice of the time, date, and place of the hearing by mailing the notice to every person who has filed a request for notice thereby with the state agency. The state agency shall consider all relevant matter presented to it before adopting, amending or repealing any regulation.

(b) In any hearing under this section the state agency or its duly authorized representative shall have authority to administer oaths or affirmations. An agency may continue or postpone a hearing from time to time to the time and at the place as it determines. If a hearing is continued or postponed, the state agency shall provide notice to the public as to when it will be resumed or rescheduled.

(c) No state agency may adopt, amend, or repeal a regulation which has been changed from that which was originally made available to the public pursuant to Section 11346.5, unless the change is (1) nonsubstantial or solely grammatical in nature, or (2) sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed regulatory action. If a sufficiently related change is made, the full text of the resulting adoption, amendment, or repeal, with the change clearly indicated, shall be made available to the public for at least 15 days before the agency adopts, amends, or repeals the resulting regulation. Any written comments received regarding the change must be responded to in the final statement of reasons required by subdivision (b) of Section 11346.7.

(d) No state agency shall add any material to the record of the rulemaking proceeding after the close of the public hearing or comment period, unless adequate provision is made for public comment on that matter.

SEC. 16. Section 11347.3 of the Government Code is amended to read:

11347.3. (a) Every agency shall maintain a file of each rulemaking which shall be deemed to be the record for that rulemaking proceeding. The file shall include:

(1) Copies of any petitions received from interested persons proposing the adoption, amendment or repeal of the regulation.

(2) All published notices of proposed adoption, amendment, or repeal of the regulation, and an updated informative digest, the initial statement of reasons, and the final statement of reasons.

(3) The determination, together with the supporting data required by paragraph (5) of subdivision (a) of Section 11346.5.

(4) The determination, together with the supporting data required by subdivision (b) of Section 11346.53.

(5) The estimate, together with the supporting data and calculations, required by paragraph (6) of subdivision (a) of Section 11346.5.

(6) All data and other factual information, any studies or reports, and written comments submitted to the agency in connection with the adoption, amendment, or repeal of the regulation.

(7) All data and other factual information, technical, theoretical, and empirical studies or reports, if any, on which the agency is relying in the adoption, amendment, or repeal of a regulation, including any cost impact estimates as required by Section 11346.53.

(8) A transcript, recording or minutes of any public hearing connected with the adoption, amendment or repeal of the regulation.

(9) The date on which the agency made available to the public for 15 days prior to the adoption, amendment, or repeal of the regulation the full text as required by subdivision (c) of Section 11346.8 if the agency made changes to the regulation noticed to the public.

(10) The text of regulations as originally proposed and the modified text of regulations, if any, that were made available to the public prior to adoption.

(11) Any other information, statement, report or data which the agency is required by law to consider or prepare in connection with the adoption, amendment or repeal of a regulation.

(12) An index or table of contents which identifies each item contained in the rulemaking file. The index or table of contents shall include an affidavit or a declaration under penalty of perjury in the form specified by Section 2015.5 of the Code of Civil Procedure by the agency official who has compiled the rulemaking file, specifying the date upon which the record was closed, and that the file or the copy, if submitted, is complete.

(b) Every agency shall submit to the office with the adopted regulation, the rulemaking file or a complete copy of the rulemaking file.

(c) The agency file of the rulemaking proceeding shall be made available by the agency to the public, and to the courts in connection with the review of the regulation.

SEC. 17. Section 11347.5 of the Government Code is amended to read:

11347.5. (a) No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in subdivision (b) of Section 11342, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to this chapter.

(b) If the office is notified of, or on its own, learns of the issuance, enforcement of, or use of, an agency guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other

rule which has not been adopted as a regulation and filed with the Secretary of State pursuant to this chapter, the office may issue a determination as to whether the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, is a regulation as defined in subdivision (b) of Section 11342.

(c) The office shall do all of the following:

(1) File its determination upon issuance with the Secretary of State.

(2) Make its determination known to the agency, the Governor, and the Legislature.

(3) Publish a summary of its determination in the California Regulatory Notice Register within 15 days of the date of issuance.

(4) Make its determination available to the public and the courts.

(d) Any interested person may obtain judicial review of a given determination by filing a written petition requesting that the determination of the office be modified or set aside. A petition shall be filed with the court within 30 days of the date the determination is published.

(e) A determination issued by the office pursuant to this section shall not be considered by a court, or by an administrative agency in an adjudicatory proceeding if all of the following occurs:

(1) The court or administrative agency proceeding involves the party that sought the determination from the office.

(2) The proceeding began prior to the party's request for the office's determination.

(3) At issue in the proceeding is the question of whether the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule which is the legal basis for the adjudicatory action is a regulation as defined in subdivision (b) of Section 11342.

SEC. 17.5. Section 11349.1 of the Government Code is amended to read:

11349.1. (a) The office shall review all regulations adopted pursuant to the procedure specified in Article 5 (commencing with Section 11346) of Chapter 3.5 and submitted to it for publication in the California Regulatory Code Supplement and for transmittal to the Secretary of State and make determinations using all of the following standards:

(1) Necessity.

(2) Authority.

(3) Clarity.

(4) Consistency.

(5) Reference.

(6) Nonduplication.

In reviewing regulations pursuant to this section, the office shall restrict its review to the regulation and the record of the rulemaking proceeding. The office shall approve the regulation or order of repeal if it complies with the standards set forth in this section and with the provisions of this chapter.

(b) In reviewing proposed regulations for the criteria in subdivision (a) of Section 11349.1, the office may consider the clarity of the proposed regulation in the context of related regulations already in existence.

(c) The office shall adopt regulations governing the procedures it uses in reviewing regulations submitted to it. The regulations shall provide for an orderly review and shall specify the methods, standards, presumptions, and principles the office uses, and the limitations it observes, in reviewing regulations to establish compliance with the standards specified in subdivision (a). The regulations adopted by the office shall ensure that it does not substitute its judgment for that of the rulemaking agency as expressed in the substantive content of adopted regulations.

(d) The office shall return any regulation subject to this chapter to the adopting agency if any of the following occur:

(1) The adopting agency has not prepared the estimate required by paragraph (6) of subdivision (a) of Section 11346.5 and has not included the data used and calculations made and the summary report of the estimate in the file of the rulemaking.

(2) The adopting agency has prepared the estimate required by paragraph (6) of subdivision (a) of Section 11346.5, the estimate indicates that the regulation will result in a cost to local agencies or school districts that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4, and the adopting agency fails to do any of the following:

(A) Cite an item in the Budget Act for the fiscal year in which the regulation will go into effect as the source from which the Controller may pay the claims of local agencies or school districts.

(B) Cite an accompanying bill appropriating funds as the source from which the Controller may pay the claims of local agencies or school districts.

(C) Attach a letter or other documentation from the Department of Finance which states that the Department of Finance has approved a request by the agency that funds be included in the Budget Bill for the next following fiscal year to reimburse local agencies or school districts for the costs mandated by the regulation.

(D) Attach a letter or other documentation from the Department of Finance which states that the Department of Finance has authorized the augmentation of the amount available for expenditure under the agency's appropriation in the Budget Act which is for reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 to local agencies or school districts from the unencumbered balances of other appropriations in the Budget Act and that this augmentation is sufficient to reimburse local agencies or school districts for their costs mandated by the regulation.

(e) The office shall notify the Department of Finance of all regulations returned pursuant to subdivision (d).

(f) The office shall return a rulemaking file to the submitting

agency if the file does not comply with subdivisions (a) and (b) of Section 11347.3. Within three state working days of the receipt of a rulemaking file, the office shall notify the submitting agency of any deficiency identified. If no notice of deficiency is mailed to the adopting agency within that time, a rulemaking file shall be deemed submitted as of the date its original receipt by the office. A rulemaking file shall not be deemed submitted until each deficiency identified under this subdivision has been corrected.

The provisions of this subdivision shall not limit the review of regulations under this article, including, but not limited to, the conformity of rulemaking files to the provisions of subdivisions (a) and (b) of Section 11347.3.

SEC. 18. Section 11349.2 of the Government Code is repealed.

SEC. 19. Section 11349.3 of the Government Code is amended to read:

11349.3. (a) The office shall either approve a regulation submitted to it for review and transmit it to the Secretary of State for filing or disapprove it within 30 calendar days after the regulation has been submitted to the office for review. If the office fails to act within 30 days, the regulation shall be deemed to have been approved and the office shall transmit it to the Secretary of State for filing.

(b) If the office disapproves a regulation, it shall return it to the adopting agency within the 30-day period specified in subdivision (a) accompanied by a notice specifying the reasons for disapproval. Within seven calendar days of the issuance of the notice, the office shall provide the adopting agency with a written decision detailing the reasons for disapproval. No regulation shall be disapproved except for failure to comply with the standards set forth in Section 11349.1 or for failure to comply with this chapter.

(c) If an agency determines, on its own initiative, that a regulation submitted pursuant to subdivision (a) should be returned by the office prior to completion of the office's review, it may request the return of the regulation. All requests for the return of a regulation shall be memorialized in writing by the submitting agency no later than one week following the request. Any regulation returned pursuant to this subdivision shall be resubmitted to the office for review within the one-year period specified in subdivision (b) of Section 11346.4 or shall comply with Article 5 (commencing with Section 11346) prior to resubmission.

(d) The office shall not initiate the return of a regulation pursuant to subdivision (c) as an alternative to disapproval pursuant to subdivision (b).

SEC. 20. Section 11349.4 of the Government Code is amended to read:

11349.4. (a) A regulation returned to an agency because of failure to meet the standards of Section 11349.1, because of an agency's failure to comply with this chapter may be rewritten and resubmitted within 120 days of the agency's receipt of the written

opinion required by subdivision (b) of Section 11349.3 without complying with the notice and public hearing requirements of Sections 11346.4, 11346.5, and 11346.8 unless the substantive provisions of the regulation have been significantly changed. If the regulation has been significantly changed or was not submitted within 120 days of receipt of the written opinion, the agency shall comply with Article 5 (commencing with Section 11346) and readopt the regulation. The director of the office may, upon a showing of good cause, grant an extension to the 120-day time period specified in this subdivision.

(b) Upon resubmission of a disapproved regulation to the office pursuant to subdivision (a), the office shall only review the resubmitted regulation for those reasons expressly identified in the written opinion required by subdivision (b) of Section 11349.3, or for those issues arising as a result of a substantial change to a provision of the resubmitted regulation or as a result of intervening statutory changes or intervening court orders or decisions.

(c) When an agency resubmits a withdrawn or disapproved regulation to the office it shall identify the prior withdrawn or disapproved regulation by date of submission to the office, shall specify the portion of the prior rulemaking record that should be included in the resubmission, and shall submit to the office a copy of the prior rulemaking record if that record has been returned to the agency by the office.

(d) The office shall expedite the review of a regulation submitted without significant substantive change.

SEC. 20.2. Section 11349.5 of the Government Code is amended to read:

11349.5. (a) To initiate a review of a decision by the office, the agency shall file a written Request for Review with the Governor's Legal Affairs Secretary within 10 days of receipt of the written opinion provided by the office pursuant to subdivision (b) of Section 11349.3. The Request for Review shall include a complete statement as to why the agency believes the decision is incorrect and should be overruled. Along with the Request for Review, the agency shall submit all of the following:

(1) The office's written decision detailing the reasons for disapproval required by subdivision (b) of Section 11349.3.

(2) Copies of all regulations, notices, statements, and other documents which were submitted to the office.

(b) A copy of the agency's Request for Review shall be delivered to the office on the same day it is delivered to the Governor's office. The office shall file its written response to the agency's request with the Governor's Legal Affairs Secretary within 10 days and deliver a copy of its response to the agency on the same day it is delivered to the Governor's office.

(c) The Governor's office shall provide the requesting agency and the office with a written decision within 15 days of receipt of the response by the office to the agency's Request for Review. Upon

receipt of the decision, the office shall publish in the California Regulatory Code Supplement the agency's Request for Review, the office's response thereto, and the decision of the Governor's office.

(d) The time requirements set by subdivisions (a) and (b) may be shortened by the Governor's office for good cause.

(e) The Governor may overrule the decision of the office disapproving a proposed regulation, an order repealing an emergency regulation adopted pursuant to subdivision (b) of Section 11346.1, a decision refusing to allow the readoption of an emergency regulation pursuant to Section 11346.1, or a determination to repeal pursuant to subdivision (k) of Section 11349.7. In that event, the office shall immediately transmit the regulation to the Secretary of State for filing.

(f) Upon overruling the decision of the office, the Governor shall immediately transmit to the Committees on Rules of both houses of the Legislature a statement of his or her reasons for overruling the decision of the office, along with copies of the adopting agency's initial statement of reasons issued pursuant to Section 11346.7 and the office's statement regarding the disapproval of a regulation issued pursuant to subdivision (b) of Section 11349.3. The Governor's action and the reasons therefor shall be published in the California Regulatory Code Supplement.

SEC. 20.5. Section 11349.6 of the Government Code is amended to read:

11349.6. (a) In the event the adopting agency has complied with Sections 11346.4 to 11346.8, inclusive, prior to the adoption of the regulation as an emergency, the office shall approve or disapprove the regulation in accordance with this article.

(b) Emergency regulations adopted pursuant to subdivision (b) of Section 11346.1 shall be reviewed by the office within 10 calendar days after their submittal to the office. The office shall not file the emergency regulations with the Secretary of State if it determines that the regulation is not necessary for the immediate preservation of the public peace, health and safety, or general welfare, or if it determines that the regulation fails to meet the standards set forth in Section 11349.1, or if it determines the agency failed to comply with subdivisions (b) and (c) of Section 11346.1.

(c) If the office considers any information not submitted to it by the rulemaking agency when determining whether to file emergency regulations, the office shall provide the rulemaking agency with an opportunity to rebut or comment upon that information.

(d) Within 30 days of the filing of a certificate of compliance, the office shall review the regulation and hearing record and approve or order the repeal of an emergency regulation if it determines that the regulation fails to meet the standards set forth in Section 11349.1, or if it determines that the agency failed to comply with this chapter.

SEC. 21. Section 11349.7 of the Government Code is repealed.

SEC. 22. Section 11349.8 of the Government Code is repealed.

SEC. 23. Section 11349.9 of the Government Code is amended and renumbered to read:

11344.3. Every document, other than a notice of proposed rulemaking action, required to be published in the California Regulatory Notice Register by this chapter, shall be published in the first edition of the California Regulatory Notice Register following the date of the document.

SEC. 23.5. Section 11350.3 of the Government Code is amended to read:

11350.3. Any interested person may obtain a judicial declaration as to the validity of a regulation which the office has disapproved or ordered repealed pursuant to Section 11349.3, 11349.6, or 11340.15 by bringing an action for declaratory relief in the superior court in accordance with the provisions of the Code of Civil Procedure. The court may declare the regulation valid if it determines that the regulation meets the standards set forth in Section 11349.1 and that the agency has complied with this chapter. If the court so determines, it may order the office to immediately file the regulation with the Secretary of State.

SEC. 24. Section 11351 of the Government Code is amended to read:

11351. (a) Except as provided in subdivision (b), Article 5 (commencing with Section 11346), Article 6 (commencing with Section 11349), and Article 7 (commencing with Section 11350) of this chapter shall not apply to the Public Utilities Commission, the Division of Industrial Accidents, or the Workers' Compensation Appeals Board, and Article 3 (commencing with Section 11343) and Article 4 (commencing with Section 11344) of this chapter shall apply only to the rules of procedure of said state agencies.

(b) The Public Utilities Commission, the Division of Industrial Accidents and the Workers' Compensation Appeals Board shall comply with paragraph (5) of subdivision (a) of Section 11346.4 with respect to regulations which are required to be filed with the Secretary of State pursuant to Section 11343.

SEC. 25. Section 11356 of the Government Code is amended to read:

11356. (a) Article 6 (commencing with Section 11349) is not applicable to any building standards subject to the approval of the State Building Standards Commission.

(b) Article 5 (commencing with Section 11346) is applicable to those building standards, except that the office shall not disapprove those building standards nor refuse to publish any notice of proposed building standards if either has been approved by, and submitted to, the office by the State Building Standards Commission pursuant to Section 18935 of the Health and Safety Code.

CHAPTER 1376

An act to amend Sections 44256, 44258.5, and 46300 of, to add Sections 44258.1, 44258.2, 44258.7, and 44258.9 to, and to repeal Sections 44257 and 44819 of, the Education Code, relating to teachers.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987]

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

SECTION 1. Section 44256 of the Education Code is amended to read:

44256. Authorization for teaching credentials shall be of four basic kinds, as defined below:

(a) "Single subject instruction" means the practice of assignment of teachers and students to specified subject matter courses, as is commonly practiced in California high schools and most California junior high schools. The holder of a single subject teaching credential or a standard secondary credential or a special secondary teaching credential, as defined in this subdivision, who has completed 20 semester hours of coursework or 10 semester hours of upper division or graduate coursework approved by the commission at an accredited institution in any subject commonly taught in grades 7 to 12, inclusive, other than the subject for which he or she is already certificated to teach, shall be eligible to have this subject appear on the credential as an authorization to teach this subject. The commission, by regulation, may require that evidence of additional competence is a condition for instruction in particular subjects, including, but not limited to, foreign languages. The commission may establish and implement alternative requirements for additional authorizations to the single subject credential on the basis of specialized needs. For purposes of this subdivision, a special secondary teaching credential means a special secondary teaching credential issued on the basis of at least a baccalaureate degree, a student teaching requirement, and 24 semester units of coursework in the subject specialty of the credential.

(b) "Multiple subject instruction" means the practice of assignment of teachers and students for multiple subject matter instruction, as is commonly practiced in California elementary schools and as is commonly practiced in early childhood education.

The holder of a multiple subject teaching credential or a standard elementary credential who has completed 20 semester hours of coursework or 10 semester hours of upper division or graduate coursework approved by the commission at an accredited institution in any subject commonly taught in grades 6, 7, 8, and 9 shall be eligible to have that subject appear on the credential as authorization to teach the subject in departmentalized classes in grades 6, 7, 8, and 9. The governing board of a school district by resolution may

authorize the holder of a multiple subject teaching credential or a standard elementary credential to teach any subject in departmentalized classes to a given class or group of students below grade 9, provided that the teacher has completed at least 12 semester units, or six upper division or graduate units, of coursework at an accredited institution in each subject to be taught. The authorization shall be with the teacher's consent and shall be restricted to a partial assignment. However, the commission, by regulation, may provide that evidence of additional competence is necessary for instruction in particular subjects, including, but not limited to, foreign languages. The commission may establish and implement alternative requirements for additional authorizations to the multiple subject credential on the basis of specialized needs.

(c) "Specialist instruction" means any specialty requiring advanced preparation or special competence including, but not limited to, reading specialist, mathematics specialist, specialist in special education, or early childhood education, and such other specialties as the commission may determine.

(d) "Designated subjects" means the practice of assignment of teachers and students to designated technical, trade, or vocational courses which courses may be part of a program of trade, technical, or vocational education.

SEC. 1.5. Section 44257 of the Education Code is repealed.

SEC. 2. Section 44258.1 is added to the Education Code, to read:

44258.1. The holder of a credential authorizing instruction in a self-contained classroom may teach in grades 5 to 8, inclusive, in a middle school, provided that he or she teaches two or more subjects for two or more periods per day to the same group of students.

SEC. 2.5. Section 44258.2 is added to the Education Code, to read:

44258.2. The holder of a single subject teaching credential or a standard secondary teaching credential may, with his or her consent, be assigned by action of the local governing board to teach classes in grades 5 to 8, inclusive, in a middle school, provided that he or she has a minimum of 12 semester units, or six upper division or graduate units, of coursework at an accredited institution in the subject to which he or she is assigned. This assignment shall be a partial assignment for one year, but may be renewed annually by action of the governing board.

SEC. 3. Section 44258.5 of the Education Code is amended to read:

44258.5. (a) The commission may issue a limited assignment authorization, for a fee of twelve dollars ($12), to a permanent employee allowing the employee to be assigned, with his or her consent, to teach in any single subject class in which he or she has accomplished one or more of the following:

(1) Six semester units in the subject.

(2) Achievement of at least a passing average on the appropriate national teachers examination used for credentialing in the subject by the commission.

(3) A major in a related subject field.

(4) Ninety hours of staff development in the subject.

(b) The governing board of the school district which seeks to employ credentialed personnel under a limited assignment authorization by resolution shall provide specific authorization for any assignment made pursuant to subdivision (a). Any such assignment shall remain in effect until the end of that school year. The resolution shall include a statement of need for the holder of a limited assignment authorization which documents the efforts of the district to employ a fully credentialed person for that position. The resolution shall accompany the application for the limited assignment authorization.

(c) A limited term assignment may be renewed for not more than two additional years.

(d) Each school district governing board shall notify the commission of the name of the certificated employee of the district who will be responsible for the implementation of workshops with district administrators regarding the proper assignment of teachers within their credential authorizations.

(e) This section shall remain in effect only until June 30, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before June 30, 1991, deletes or extends that date.

SEC. 4. Section 44258.7 is added to the Education Code, to read:

44258.7. (a) The holder of a standard secondary credential who, prior to September 1, 1987, has taught successfully in a subject within the department of his or her academic major or minor for a minimum of three years, as verified by the employing school district, may receive a supplementary authorization in that subject upon application, payment of a fee, which shall not exceed one-half of the regular credential fee, and evidence that one of the following has been accomplished:

(1) Successful completion, by September 1, 1989, of a minimum of 12 semester units, or six upper division or graduate units, of coursework at an accredited institution in the subject.

(2) The securing of a passing score on an examination in the subject approved by the Commission on Teacher Credentialing.

(3) Verification of competence in the subject matter by a subject area specialist not associated with the employing school district.

(b) A person who holds a teaching credential in a subject or subjects other than physical education may be authorized by action of the local governing board to coach one period per day in a competitive sport for which students receive physical education credit, provided that he or she is a full-time employee of the school district and has completed a minimum of 20 hours of first aid instruction appropriate for the specific sport.

(c) A teacher employed on a full-time basis who has special skills and preparation outside of his or her credential authorization may, with his or her consent, be assigned to teach in the area of such special skills or preparation for up to 40 percent of a full-time

teaching assignment, provided that the assignment is first approved by a committee on assignments. The membership of the committee on assignments shall include an equal number of teachers, selected by teachers, and school administrators, selected by school administrators.

(d) Assignments approved by the committee on assignments shall be for a maximum of one school year, but may be extended by action of the committee upon application by the school site administrator and the affected teacher. All initial assignments and extensions shall be approved prior to the beginning of the semester in which the assignment is to take place. Districts making assignments under this subdivision shall submit a plan to the county superintendent of schools which shall include, but need not be limited to, the following:

(1) Statements signed by the district superintendent and the president or chairperson of the district governing board, approving the establishment of the committee.

(2) Procedures for selection of the committee membership.

(3) Terms of office for committee members.

(4) Criteria for determining teachers' qualifications for these assignments.

(e) The Commission on Teacher Credentialing may develop and recommend general criteria that may be used by local committees on assignment in assessing a candidate's qualifications.

SEC. 5. Section 44258.9 is added to the Education Code, to read:

44258.9. (a) Beginning July 1, 1988, school districts shall establish procedures for reviewing teacher assignments yearly, and shall report to the local governing board in a public meeting on the assignments by December 15 of each school year. These procedures shall include the collection of teacher assignment schedules for each school and the verification of the legality of those assignments by a personnel administrator. The Commission on Teacher Credentialing may approve alternative verification procedures proposed by school districts with an average daily student attendance above 30,000.

(b) Commencing July 1, 1988, each chief school site administrator shall annually file with the district superintendent of schools a signed affidavit stating whether all certificated persons for whom he or she is responsible are assigned to areas within their credential authorization.

(c) Commencing July 1, 1988, each district superintendent of schools shall submit a signed affidavit to the county superintendent of schools by June 1 of each year attesting to the legality of all certificated employee assignments for the current school year.

(d) Commencing July 1, 1989, each county superintendent of schools shall annually monitor and review school district certificated employee assignment practices in at least one-third of the school districts within his or her jurisdiction, except that the Commission on Teacher Credentialing shall be responsible for the monitoring and review of those counties or cities and counties in which there is a single school district, including the Counties of Alpine, Amador, Del

Norte, Mariposa, Plumas, and Sierra, and the City and County of San Francisco. All information related to the misassignment of certificated personnel shall be submitted to each affected district within 45 calendar days of the monitoring activity.

(e) Commencing July 1, 1990, county superintendents of schools shall submit an annual report to the Commission on Teacher Credentialing summarizing the results of all assignment monitoring and reviews. These reports shall include, but need not be limited to, the following:

(1) The numbers of teachers assigned and types of assignments made by local district governing boards under the authority of Sections 44256, 44258.2, and 44263 of the Education Code.

(2) Information on actions taken by local committees on assignment, including the number of assignments authorized, subject areas into which committee-authorized teachers are assigned, and evidence of any departures from the implementation plans presented to the county superintendent by school districts.

(3) Information on each school district reviewed regarding misassignments of certificated personnel, including efforts to eliminate these misassignments.

(4) After consultation with representatives of county superintendents of schools, other information as may be determined to be needed by the Commission on Teacher Credentialing.

(f) Commencing in 1990, the Commission on Teacher Credentialing shall submit biennial reports to the Legislature concerning teacher assignments and misassignments which shall be based, in part, on the annual reports of the county superintendents of schools.

(g) (1) The Commission on Teacher Credentialing shall establish reasonable sanctions for the misassignment of credential holders.

Prior to the implementation of regulations establishing sanctions, the Commission on Teacher Credentialing shall engage in a variety of activities designed to inform school administrators, teachers, and personnel within the offices of county superintendents of schools of the regulations and statutes affecting the assignment of certificated personnel. These activities shall include the preparation of instructive brochures and the holding of regional workshops.

(2) Commencing July 1, 1989, any certificated person who has been required by an administrative superior to accept an assignment for which he or she has no legal authorization shall, after exhausting any existing local remedies, notify the county superintendent of schools in writing of the illegal assignment. The county superintendent of schools shall, within 15 working days, advise the affected certificated person concerning the legality of his or her assignment. There shall be no adverse action taken against a certificated person who files a notification of misassignment with the county superintendent of schools. During the period of the misassignment, the certificated person who has filed a written notification with the county superintendent of schools shall be

exempt from the provisions of Section 45034. If it is determined that a misassignment has taken place, any performance evaluation of the employee under Sections 44660 to 44664, inclusive, in any misassigned subject shall be nullified.

(3) Commencing July 1, 1989, the county superintendent of schools shall notify, through the office of the district superintendent, any certificated school administrator responsible for the assignment of a certificated person to a position for which he or she has no legal authorization of the misassignment and shall advise him or her to correct the assignment within 30 calendar days. The county superintendent of schools shall notify the Commission on Teacher Credentialing of the misassignment if the certificated school administrator has not corrected the misassignment within 30 days of the initial notification, or if the certificated school administrator has not described, in writing, within the 30-day period, to the county superintendent of schools the extraordinary circumstances which make this correction impossible.

(4) Commencing July 1, 1989, the county superintendent of schools shall notify any superintendent of a school district in which 5 percent or more of all certificated teachers in the secondary schools are found to be misassigned of the misassignments and shall advise him or her to correct the misassignments within 120 calendar days. The county superintendent of schools shall notify the Commission on Teacher Credentialing of the misassignments if the school district superintendent has not corrected the misassignments within 120 days of the initial notification, or if the school district superintendent of schools has not described, in writing, within the 120-day period, to the county superintendent of schools the extraordinary circumstances which make this correction impossible.

(h) Commencing July 1, 1989, each applicant for a professional administrative service credential shall be required to demonstrate knowledge of existing credentialing laws, including knowledge of assignment authorizations.

SEC. 6. It is the intent of the Legislature, commencing with fiscal year 1989–90, to provide resources to the offices of the county superintendents of schools and school districts to implement an effective monitoring, reviewing, and reporting system for district assignments of credentialed personnel.

SEC. 7. Section 44819 of the Education Code is repealed.

SEC. 8. Section 46300 of the Education Code is amended to read:

46300. (a) In computing average daily attendance of a school district, there shall be included the attendance of pupils while engaged in educational activities required of those pupils and under the immediate supervision and control of an employee of the district who possessed a valid certification document, registered as required by law.

(b) For the purposes of a work experience education program in a secondary school that meets the standards of the California State Plan for Vocational Education, the term "immediate supervision," in

the context of off-campus work training stations, means pupil participation in on-the-job training as outlined under a training agreement, coordinated by the school district under a state-approved plan, wherein the employer and certificated school personnel share the responsibility for on-the-job supervision. The pupil-teacher ratio in a work experience program shall not exceed 125 students per full-time equivalent certificated teacher coordinator. Notwithstanding Section 52033, this ratio may be waived by the State Board of Education pursuant to Article 3 (commencing with Section 33050) of Chapter 1 of Part 20 under criteria developed by the State Board of Education.

A pupil enrolled in a work experience program shall not be credited with more than one day of attendance per calendar day, and shall be a full-time student enrolled in regular classes that meet the requirements of Section 46141 or 46144.

(c) For the purposes of the rehabilitative schools, classes, or programs described in Section 48917 that require immediate supervision, the term "immediate supervision" means that the person to whom the pupil is required to report for training, counseling, tutoring, or other prescribed activity shares the responsibility for the supervision of the pupils in the rehabilitative activities with certificated personnel of the district.

A pupil enrolled in a rehabilitative school, class, or program shall not be credited with more than one day of attendance per calendar day.

(d) For the purposes of computing the average daily attendance of pupils engaged in the educational activities required of high school pupils who are also enrolled in a regional occupational center or regional occupational program, the school district shall receive proportional average daily attendance credit for those educational activities that are less than the minimum schoolday, pursuant to regulations adopted by the State Board of Education, however, none of that attendance shall be counted for purposes of computing attendance pursuant to Section 52324.

A school district shall not receive proportional average daily attendance credit pursuant to this subdivision for any pupil in attendance for less than 145 minutes each day.

The divisor for computing proportional average daily attendance pursuant to this subdivision is 240; except, in the case of a pupil excused from physical education classes pursuant to Section 52316, the divisor is 180.

Notwithstanding any other provision of law, travel time of pupils to attend a regional occupational center or regional occupational program shall not be used in any manner in the computation of average daily attendance.

(e) In computing the average daily attendance of a school district, there shall also be included the attendance of pupils participating in an independent study program conducted pursuant to Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28.

A pupil enrolled in an independent study program shall not be credited with more than one day of attendance per calendar day.

(f) For purposes of cooperative vocational education programs and community classrooms described in Section 52372.1, the term "immediate supervision" means pupil participation in paid and unpaid on-the-job experiences, as outlined under a training agreement and individualized training plans wherein the supervisor of the training site and certificated school personnel share the responsibility for the supervision of on-the-job experiences.

SEC. 9. Sections 1 to 8, inclusive, of this act shall not become operative if Senate Bill No. 148, Senate Bill No. 1677, or Assembly Bill No. 2619 is chaptered and becomes effective on or before January 1, 1988, and contains provisions relating to teacher credentialing.

SEC. 10. Notwithstanding Section 17610 of the Government Code, if funding is not appropriated in the Budget Act of 1989, and if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1377

An act to amend Section 81802 of the Education Code, relating to community colleges, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 81802 of the Education Code is amended to read:

81802. (a) As used in this chapter, "project" means the purpose for which a community college district has applied for assistance under this chapter for one or more institutions under its authority or for districtwide facilities. A project may include the planning, acquisition, and improvement of community college sites; the planning, construction, reconstruction, or remodeling of any permanent structure necessary for use as a classroom, a laboratory, a library, a performing arts facility, a gymnasium, the basic outdoor physical education facilities, the basic food service facilities, or child development centers, pursuant to Section 79120; related facilities necessary for the instruction of students or for administration of the

educational program; maintenance or utility facilities essential to the operation of the foregoing facilities; and the initial acquisition of equipment. A project may also include the initial furnishing of, and initial acquisition of equipment for, any facility leased or lease-purchased by a community college district as of August 1, 1987, for any educational purpose or purposes.

(b) A project may also include the reconstruction or remodeling of any facility leased or lease-purchased for educational purposes. The chancellor's office shall require transfer to the community college district of title or any other interest considered sufficient by the district, in and to facilities presently leased or to be leased in the future by the district, to the extent of the funds appropriated for reconstruction or remodeling of leased facilities. When sufficient title or interest has not been transferred, the term of the lease shall be of sufficient duration to completely amortize the reconstruction or remodeling cost. Such amortization shall be determined by utilizing current interest rates and normal accounting practices. If the lease is terminated prior to amortizing the reconstruction or remodeling costs the district shall repay the state for any unamortized state costs.

(c) The projects defined by subdivisions (a) and (b) of this section shall not be construed as a commitment by the Legislature as to the type or possible number of projects that may be considered during any fiscal year.

(d) A project shall not include the planning or construction of dormitories, student centers other than cafeterias, stadia, the improvement of sites for student or staff parking, or single-purpose auditoriums.

SEC. 1.5. Section 81802 of the Education Code, as amended by Section 1 of this act, is amended to read:

81802. (a) As used in this chapter, "project" means the purpose for which a community college district has applied for assistance under this chapter for one or more institutions under its authority or for districtwide facilities. A project may include the planning, acquisition, and improvement of community college sites; the planning, construction, reconstruction, or remodeling of any permanent structure necessary for use as a classroom, a laboratory, a library, a performing arts facility, a gymnasium, the basic outdoor physical education facilities, the basic food service facilities, or child development centers, pursuant to Section 79120; related facilities necessary for the instruction of students or for administration of the educational program; maintenance or utility facilities essential to the operation of the foregoing facilities; and the initial acquisition of equipment. A project may also include the initial furnishing of, and initial acquisition of equipment for, any facility leased or lease-purchased by a community college district as of August 1, 1987, for any educational purpose or purposes.

(b) A project may also include the reconstruction or remodeling of any facility leased or lease-purchased for educational purposes.

The chancellor's office shall require transfer to the community college district of title or any other interest considered sufficient by the district, in and to facilities presently leased or to be leased in the future by the district, to the extent of the funds appropriated for reconstruction or remodeling of leased facilities. When sufficient title or interest has not been transferred, the term of the lease shall be of sufficient duration to completely amortize the reconstruction or remodeling cost. Such amortization shall be determined by utilizing current interest rates and normal accounting practices. If the lease is terminated prior to amortizing the reconstruction or remodeling costs the district shall repay the state for any unamortized state costs.

A project consisting of the construction of any facilities listed in subdivision (a) on property that conforms to subdivision (b) of Section 81530 shall be eligible for state funding. For any project that is constructed under this paragraph, the term of the lease shall be of sufficient duration to completely amortize the cost of the project and the governing board of the community college district shall provide in the lease agreement a hold harmless clause satisfactory to the lessor. The amortization shall be determined by utilizing current interest rates and normal accounting practices. If the lease is terminated prior to amortizing the project, the district shall pay the state for any unamortized state costs.

(c) The projects defined by subdivisions (a) and (b) of this section shall not be construed as a commitment by the Legislature as to the type or possible number of projects that may be considered during any fiscal year.

(d) A project shall not include the planning or construction of dormitories, student centers other than cafeterias, stadia, the improvement of sites for student or staff parking, or single-purpose auditoriums.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 81802 of the Education Code proposed by both this bill and AB 1126. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1988, but this bill becomes operative first, (2) each bill amends Section 81802 of the Education Code, and (3) this bill is enacted after AB 1126, in which case Section 81802 of the Education Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 1126, at which time Section 1.5 of this bill shall become operative.

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 funding under the Community College Construction Act of 1980 may be made available to meet certain educational facility costs currently being incurred by community college districts, it is necessary that this act take effect immediately.

CHAPTER 1378

An act to amend Section 2823 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987]

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

SECTION 1. Section 2823 of the Revenue and Taxation Code is amended to read:

2823. The county assessor shall determine a separate valuation on the parcel, and shall determine the valuation of the remaining parcel. The sum of the valuations of the parcels shall equal their total valuation before separation.

A separate valuation shall not be made of any parcel covered by a subdivision map filed for record after the next preceding lien date. In connection with the recording of a final subdivision map a segregation may nevertheless be made so as to include all of the land within the subdivision in a single parcel.

A separate valuation shall not be made dividing any piece of property separately assessed in the original assessment into more than four parcels.

With respect to nonresidential subdivisions, without regard to the number of parcels involved, which are covered by special assessment liens the bonds for which are owned by a county, the board of supervisors of that county may authorize the county assessor, auditor, and tax collector to prorate the amounts for past due property taxes and assessment liens, plus any interest and penalties that may have accrued thereon, among the various parcels in the subdivision. Notwithstanding any other provision of law, the tax collector may then enter into an installment payment agreement with respect to the pending subdivision map and thereupon the agreement shall be deemed the equivalent of a certificate pursuant to Section 66492 of the Government Code for purposes of permitting the filing of the final map and shall be recorded together with the final map, provided that the past due property taxes, assessment liens, and the special assessment lien shall not be discharged of record by the agreement, but shall be prorated among the parcels created by the final map.

If the application requested that the tax created by the assessment of personal property, or leasehold improvements, or possessory interests be allowed to remain as a lien on the parcel sought to be separately valued, and the assessor determines that the value of the parcel is sufficient to secure the payment of the tax, the assessor shall set forth the value of such personal property, or leasehold improvements, or possessory interests opposite the assessor's

determination of the value of the parcel.

SEC. 2. Notwithstanding Sections 54902, 54902.1, and 54903 of the Government Code, any annexation to the Shasta Dam Area Public Utility District for use as a wastewater treatment plant, which was approved by the local agency formation commission on April 11, 1979, and adopted by resolution by the district on August 1, 1979, shall be effective for assessment and taxation purposes for the 1979–80 fiscal year, if the statement and map or plat required by Sections 54900 and 54901 of the Government Code were filed with the State Board of Equalization on or before May 26, 1981.

All or any portion of any property tax, penalty, or costs shall be cancelled by the auditor on order of the board of supervisors if it was levied or charged by the County of Shasta on the property annexed by the Shasta Dam Area Public Utility District for the 1979–80, 1980–81, and 1981–82 fiscal years.

SEC. 3. The Legislature finds and declares that Section 2 of this act is necessary since special facts and circumstances applicable to the Shasta Dam Area Public Utility District, and not generally applicable, make the accomplishment of this purpose impossible by any general law. Through an administrative oversight, the district did not file the required statement and map or plat until on or about May 26, 1981. The property was, at all times during this period, used for district purposes and thereby eligible for exemption, if properly claimed. The Legislature further finds and declares that this is the only property so involved, that the purpose of this act is impossible to accomplish by any general law, and that a special statute within the meaning of Section 16 of Article IV of the California Constitution applicable only to the Shasta Dam Area Public Utility District is therefore necessary.

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 remedy an administrative oversight and remove the Shasta Dam Area Public Utility District's erroneous liability for back taxes as quickly as possible, it is necessary that this act take effect immediately.

CHAPTER 1379

An act to amend Section 1203 of the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 1203 of the Penal Code, as amended by Chapter 134 of the Statutes of 1987, 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 attorneys at least five days or, upon

request of the defendant or prosecuting attorney, 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, 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, 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 may obtain and include in the 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. 2. Section 1203 of the Penal Code, as amended by Chapter 134 of the Statutes of 1987, 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 attorneys at least five days, or upon request of the defendant or prosecuting attorney, 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, 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, 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.

(10) Any person who, in the commission of a felony, inflicts great bodily injury or causes the death of a human being by the discharge of a firearm from or at an occupied motor vehicle proceeding on a public street or highway.

(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. 3. Section 2 of this bill incorporates amendments to Section 1203 of the Penal Code proposed by both this bill and AB 2142. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1988, (2) each bill amends Section 1203 of the Penal Code, and (3) this bill is enacted after AB 2142, in which case Section 1203 of the Penal Code, as amended by AB 2142, 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.

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 decrease the risk of reversal of a sentence on the ground that a probation report was not made available in a "timely fashion," it is necessary that this act go into immediate effect.

CHAPTER 1380

An act to amend Section 75095 of the Government Code, relating to the Judges' Retirement System.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 75095 of the Government Code is amended to read:

75095. The benefits of this article are payable only to the surviving children of a judge who elects to come within this article. Any person who becomes a judge after November 23, 1970, may elect to come within this article within six months after becoming a judge, or within six months of accepting or acquiring a legal duty to support one or more eligible children, whether his or her own or those of another person.

Any judge who accepted or acquired a legal duty to support one or more eligible children prior to January 1, 1988, and who had not previously elected to come within this article, shall exercise his or her election prior to July 1, 1988. A judge so electing shall pay all the contributions he or she would have made pursuant to Section 75097

had he or she been covered by this article as soon as originally eligible pursuant to this section.

Any person who is a judge on November 23, 1970, may elect to come within the provisions of this article on or before July 1, 1971.

CHAPTER 1381

An act to add Section 22816.7 to the Government Code, relating to state employees.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987]

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

SECTION 1. Section 22816.7 is added to the Government Code, to read:

22816.7. (a) As used in this section:

(1) "Exempt employee" means an employee exempt from civil service pursuant to subdivisions (a), (c), (f), or (g) of Section 4 of Article VII of the California Constitution, or an exempt employee of the Attorney General or Legislative Counsel appointed pursuant to subdivision (m) of Section 4 of Article VII of the California Constitution.

(2) Notwithstanding Sections 22754 and 22810, "annuitant" means:

(A) A Member of the Legislature or an elective officer of the state whose office is provided by the Constitution, who has at least eight years of credited service, who permanently separates from state service both on or after January 1, 1988, and within 10 years of attaining his or her minimum age for service retirement under any state retirement system, who retires more than 120 days after separation from employment, and who is receiving any retirement allowance under any state retirement system to which the state makes contributions.

(B) An exempt employee, as defined in paragraph (1) of this subdivision who has at least 10 years of credited state service which includes at least two years of credited service while such an exempt employee, who permanently separates from state service both on or after January 1, 1988, and within 10 years of attaining his or her minimum age for service retirement under any state retirement system, who retires more than 120 days after separation from employment, and who is receiving any retirement allowance under any state retirement system to which the state makes contributions.

(3) Notwithstanding Sections 22754 and 22810, "state employee" means:

(A) A Member of the Legislature or an elective officer of the state whose office is provided by the Constitution, who has at least eight

years of credited service, who permanently separates from state service both on or after January 1, 1988, and more than 10 years before he or she would attain his or her minimum age for service retirement under any state retirement system, but who elects pursuant to law to remain a member of a state retirement system supported, in whole or in part, by state funds, other than the University of California Retirement System.

(B) An exempt employee, as defined in paragraph (1) of this subdivision who has at least 10 years of credited state service which includes at least two years of credited service while such an exempt employee, who permanently separates from state service both on or after January 1, 1988, and more than 10 years before he or she would attain his or her minimum age for service retirement under any state retirement system, but who elects pursuant to law to remain a member of a state retirement system supported, in whole or in part, by state funds, other than the University of California Retirement System.

(b) Any person who becomes an annuitant, as defined in subdivision (a), may, upon assuming payment of any employee contributions, enroll in a health benefits plan without discrimination as to premium rates or benefit coverage at which time the state shall assume payment of employer contributions for that insurance coverage and the person shall thereafter be deemed an annuitant for the purposes of this part, notwithstanding Sections 22754 and 22810.

(c) A state employee, as defined by subdivision (a), who was on the effective date of his or her permanent separation from state service enrolled in a health benefits plan under this part, shall, upon the permanent separation from state service, be entitled to have his or her coverage continued without discrimination as to premium rates or benefits coverage upon assuming payment of the contributions otherwise required of the former employer on account of his or her enrollment and any employee contribution during the period he or she is not yet receiving his or her retirement allowance. The state employee shall also pay an additional 2 percent of the contribution payments required to be paid by the state employee pursuant to this section to cover the administrative costs incurred by the public retirement system in administering the program provided by this section.

(d) Upon retirement and receipt of retirement allowance, a state employee described in subdivision (c) may elect to continue to be covered by the health benefits plan without discrimination as to premium rates or benefits coverage at which time the state shall assume payment of employer contributions for that insurance coverage and the person shall thereafter be deemed an annuitant for the purposes of this part.

CHAPTER 1382

An act to add and repeal Section 2122 of the Business and Professions Code, relating to physicians and surgeons.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987]

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

SECTION 1. The Legislature finds and declares that the creation of a Faculty-in-Exile Committee is appropriate in order to verify medical education and training in extraordinary circumstances where the official documentation of applicants for licensure as physicians and surgeons is lost due to circumstances beyond the applicants' control.

The Legislature further finds and declares that these circumstances occurred in South Vietnam during the years 1975 to 1980.

SEC. 2. Section 2122 is added to the Business and Professions Code, to read:

2122. (a) The board shall appoint a six-member Faculty-in-Exile Committee, consisting of five former faculty members of the University of Saigon, Vietnam, Medical School, and one member of the Division of Licensing. The board shall appoint the members of the committee no later than February 1, 1988.

(b) The committee shall review the application files of applicants who were admitted to the University of Saigon, Vietnam, Medical School before 1975, and who completed their education during the years 1975 to 1980, inclusive, to evaluate their eligibility and make recommendations for licensure as a physician and surgeon. The committee shall consider those applications on a timely basis, not to exceed 60 days.

(c) The committee shall make recommendations to the Division of Licensing and the division shall consider each recommendation and make a finding within 90 days after receipt of that recommendation. The division shall accept the recommendation of the committee, unless the division finds, after notice and opportunity for hearing, that the committee's recommendation is not based upon substantial evidence.

This section shall be operative until January 1, 1992, and on that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends that date.

CHAPTER 1383

An act to add Section 65863.10 to the Government Code, relating to real property.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 65863.10 is added to the Government Code, to read:

65863.10. (a) As used in this section, "assisted housing development" means a multifamily rental housing development that receives governmental assistance under any of the following federal programs:

(1) New construction, substantial rehabilitation, and loan management set-aside programs under Section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. Sec. 1437f).

(2) The following programs under the following sections of the National Housing Act:

(A) Section 213 (12 U.S.C. Sec. 1715e).

(B) The Below-Market-Interest-Rate Program under Section 221(d)(3) (12 U.S.C. Sec. 1715l (d) (3)).

(C) Section 236 (12 U.S.C. Sec. 1715z-1).

(D) Section 202 (12 U.S.C. Sec. 1708)

(3) Programs for rent supplement assistance under Section 101 of the Housing and Urban Development Act of 1965 (Public Law 89-117), as amended.

(4) Programs under Section 515 of the Housing Act of 1949, as amended (42 U.S.C. Sec. 1485).

(b) At least six months prior to the anticipated date of termination of a subsidy contract or mortgage prepayment on an assisted housing development, the owner or its agent proposing the termination or prepayment of government assistance shall provide a notice of the change to each affected tenant household residing in the assisted housing development. The notice shall contain (1) the anticipated date of the termination or prepayment of the programs contained in subdivision (a); (2) the anticipated rent increase at the date of the prepayment or termination of the program; (3) a statement that a copy of the notice will be sent to the city or county where the assisted housing development is located; and (4) a statement that a public hearing may be held by the city or county on the issue and that the tenant will receive notice of the hearing at least 15 days in advance. The same notice also shall be filed at the same time with the legislative body of the city in which the assisted housing development is located or, if located in an unincorporated area, with the legislative body of the county and with the local housing authority, if one exists, or the State Department of Housing and

Community Development, where it operates as the local housing authority.

In addition to information provided in the notice to the affected tenant, the notice to the appropriate city or county also shall contain information regarding the number of affected tenants in the project, the number of units that are government assisted, the number of the units that are not government assisted, the number of bedrooms in each unit that is government assisted and the ages and income categories of the affected tenants. The information contained in the notice shall be based on data that is reasonably available from existing tenant written records. As used in this section, "affected tenant" means a tenant household residing in an assisted housing development which benefits from the government assistance.

This section shall not require the owner or its agent to obtain or acquire additional information that is not contained in the existing tenant records. The owner or its agent shall not be held liable for any inaccuracies contained in the tenant records or from other sources.

(c) The legislative body may hold a public hearing which may be part of a regularly scheduled public hearing for the purpose of reviewing the notice provided pursuant to subdivision (b) for all assisted housing developments which consist of 25 or more units, except where the development is located in a rural area, as defined in Section 50101 of the Health and Safety Code, in which case the development shall consist of 10 or more units. The public hearing, if any, shall be held within 45 days of receipt of the notice by the city or county to determine the affect of the change upon the locality's housing needs and its ability to meet those housing needs in accordance with the housing element required pursuant to subdivision (c) of Section 65583 of the Government Code. Written notice of the time, date, and place of the hearing shall be given to each affected tenant household at least 15 days prior to the hearing date.

(d) For purposes of this section, service of the notice to the affected tenants and the appropriate city or county housing authority by the owner or its agent pursuant to subdivision (b) and service of the notice to the affected tenants by the city or county pursuant to subdivision (c) shall be made by first-class mail postage prepaid.

(e) Nothing in this section shall enlarge or diminish in any way any power which a city, county, city and county, affected tenant, or owner may have, independent of this section.

CHAPTER 1384

An act to add Sections 5685.5, 14021.3, and 14132.44 to the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987]

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

SECTION 1. Section 5685.5 is added to the Welfare and Institutions Code, to read:

5685.5. (a) A county may contract with the local office of the public guardian to receive and manage income and benefits for mentally ill persons, regardless of whether the persons are under conservatorship. The case management services described in this section shall be provided only with the consent of the client. The public guardian, under the contracts, may perform functions intended to meet the goals of the community support system listed in Section 5683, and may also include, but not be limited to, all of the following case management services:

(1) Outreach and casefinding to locate mentally ill persons in need of services.

(2) Establishing liaison with charitable organizations which serve mentally ill persons.

(3) Assistance in applying for and obtaining public assistance benefits for which they are eligible.

(b) Any office of the public guardian contracting with the county to provide these management services shall maintain a record of those individuals being assisted, including information about whether the individual is under conservatorship, the type of service assistance provided by the office of the public guardian, and any agencies with which the office of the public guardian is coordinating efforts.

SEC. 2. Section 14021.3 is added to the Welfare and Institutions Code, to read:

14021.3. The department shall amend the state plan for medical assistance under Medicaid pursuant to Section 1915(g) of Title 19 of the Social Security Act, as amended by Public Law 99-272 (42 U.S.C. Sec. 1396n(g)), to add case management services as a covered benefit under the Short-Doyle/Medi-Cal program, and shall submit the plan for federal approval by December 31, 1988, or, if the plan has not been submitted by that date, shall submit a letter to the Legislature by that date explaining the circumstances delaying the plan's submission.

Upon federal approval for federal financial assistance, the department, in consultation with the State Department of Mental Health, shall define case management services, shall establish the standards under which case management services qualify as a

Short-Doyle/Medi-Cal reimbursable service, and shall develop an appropriate rate of reimbursement, subject to utilization controls.

It is the intent of the Legislature that at least 50 percent of the total state dollars that are offset as a result of the federal funds received for case management services be redirected to services for those persons identified in Section 14132.44 and that the remainder of these funds be redirected to services under the jurisdiction of the Health and Welfare Agency for persons other than those persons identified in Section 14132.44.

SEC. 3. Section 14132.44 is added to the Welfare and Institutions Code, to read:

14132.44. Upon federal approval of the state plan amendments under Section 14021.3 for federal financial assistance, targeted case management, pursuant to Section 1915(g) of the Social Security Act as amended by Public Law 99-272 (42 U.S.C. Sec. 1396n(g)), is covered as a benefit, subject to utilization controls for all of the following populations:

(a) Persons served by regional centers administered by the State Department of Developmental Services.

(b) Persons other than those described in subdivision (a) in programs administered by the State Department of Developmental Services.

(c) Persons receiving services pursuant to Section 14021.3.

(d) Persons in programs determined appropriate by the Director of Health Services.

SEC. 4. The Director of Health Services shall adopt any necessary regulations for the purposes of Sections 14021.3 and 14132.44 of the Welfare and Institutions Code, as emergency regulations, and notwithstanding any other provision of law, shall transmit the emergency regulations adopted pursuant to this subdivision directly to the Secretary of State for filing, and they shall become effective immediately upon filing.

CHAPTER 1385

An act to add Sections 14021.3 and 14132.44 to the Welfare and Institutions Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 14021.3 is added to the Welfare and Institutions Code, to read:

14021.3. The department shall amend the state plan for medical assistance under Medicaid pursuant to Section 1915(g) of Title 19 of

the Social Security Act, as amended by Public Law 99-272 (42 U.S.C. Section 1396n(g)), to add case management services as a benefit under the Short-Doyle Medi-Cal program for persons served by the State Department of Mental Health and Short-Doyle mental health programs.

SEC. 2. Section 14132.44 is added to the Welfare and Institutions Code, to read:

14132.44. Targeted case management, pursuant to Section 1915(g) of the Social Security Act as amended by Public Law 99-272 (42 U.S.C. Sec. 1396n(g)), is covered as a benefit, subject to utilization controls for the following populations:

(a) Persons served by regional centers administered by the State Department of Developmental Services.

(b) Persons in other programs administered by the State Department of Developmental Services.

(c) Persons receiving services pursuant to Section 14021.3.

(d) Persons in programs determined appropriate by the State Director of Health Services.

SEC. 3. The State Director of Health Services shall adopt any necessary emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 3 of the Government Code to implement Sections 1 and 2 of this act. The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health or safety. 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 Sections 1 and 2 of this act shall not be subject to the prior review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

SEC. 4. Sections 1 to 3, inclusive, of this act shall become operative only upon receipt, by the State Department of Health Services, of federal approval of amendments to the state plan pursuant to this act.

SEC. 5. It is the intent of the Legislature that at least 50 percent of the total of state dollars that are offset as a result of the federal funds received for case management services be redirected to services for those persons identified in Section 14132.44 and that the remainder of such funds be redirected to services under the jurisdiction of the Health and Welfare Agency for persons other than those persons identified in Section 14132.44.

It is further the intent of the Legislature that at least 50 percent of the total state dollars that are offset as a result of the federal funds received for case management services to persons pursuant to Section 14021.3 shall be used to increase services to persons served under the Short-Doyle Act.

SEC. 6. The Secretary of the Health and Welfare Agency shall review recent federal legislation relating to changes in social

security, Medicaid, vocational rehabilitation, mental health, and any other federal programs designed to improve services for the mentally disabled and develop such recommendations as necessary to maximize opportunities for improved services to mentally disabled persons in California.

The secretary shall consult with representatives of statewide family and consumer advocacy organizations in the development of recommendations of program policy improvements.

The secretary shall provide information to the fiscal committees of both houses of the Legislature regarding these recommendations during the 1988–89 fiscal year budget process.

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:

Because the state may be missing opportunities for improving the policies and funding for thousands of mentally disabled persons, it is necessary that that act take effect immediately.

CHAPTER 1386

An act to add Section 11736.5 to the Insurance Code, to add Section 90.7 to the Labor Code, and to add Section 1141.5 to, the Unemployment Insurance Code, relating to employment.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 11736.5 is added to the Insurance Code, to read:

11736.5. If the commissioner is advised by the Department of Industrial Relations, the Employment Development Department, or any other state department or agency that an employer has failed to report all the payroll of employees, or if the commissioner otherwise has determined that the employer may have failed to report the payroll of all employees for the purpose of computing workers' compensation insurance premiums, the commissioner shall, when a policy of insurance has been issued, require the appropriate rating organization or insurer to audit the employer's payroll and operations and require the appropriate insurer to collect any premiums unpaid because of the underreporting of payroll. Any employer audited at the request of another state agency which has issued a final determination that the employer violated a specific law enforced by that agency shall pay the reasonable cost of the audit, as determined by the commissioner.

The commissioner shall annually report to the Legislature the

number of audits ordered pursuant to this section, the types of businesses audited, and the amount of premiums collected.

SEC. 2. Section 90.7 is added to the Labor Code, to read:

90.7. When the division determines that an employer has violated Section 226.2, 1021, 1021.5, 1197, or 1771, or otherwise determines that an employer may have failed to report all the payroll of the employer's employees as required by law, the division shall advise the Insurance Commissioner and request that an audit be ordered pursuant to Section 11736.5 of the Insurance Code.

SEC. 3. Section 1141.5 is added to the Unemployment Insurance Code, to read:

1141.5. When an assessment for employer or worker contributions made pursuant to this article becomes final, and is based on the failure of an employing unit to report the full amount of wages paid for employment to all employees, the director shall advise the Insurance Commissioner and request that an audit be ordered pursuant to Section 11736.5 of the Insurance Code.

SEC. 4. Nothing in this act shall be construed to impose upon the Department of Insurance duties beyond those related to the enforcement of Article 2 (commencing with Section 11730) of Chapter 3 of Part 3 of Division 2 of the Insurance Code.

CHAPTER 1387

An act to add Chapter 6.5 (commencing with Section 1690) to Division 2 of the Health and Safety Code, relating to hysterectomies.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987]

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

SECTION 1. Chapter 6.5 (commencing with Section 1690) is added to Division 2 of the Health and Safety Code, to read:

CHAPTER 6.5. HYSTERECTOMIES

1690. (a) Prior to the performance of a hysterectomy, physicians and surgeons shall obtain verbal and written informed consent. The informed consent procedure shall ensure that at least all of the following information is given to the patient verbally and in writing:

(1) Advice that the individual is free to withhold or withdraw consent to the procedure at any time before the hysterectomy without affecting the right to future care or treatment and without loss or withdrawal of any state or federally funded program benefits to which the individual might be otherwise entitled.

(2) A description of the type or types of surgery and other procedures involved in the proposed hysterectomy, and a

description of any known available and appropriate alternatives to the hysterectomy itself.

(3) Advice that the hysterectomy procedure is considered to be irreversible, and that infertility will result; except as provided in subdivision (b).

(4) A description of the discomforts and risks that may accompany or follow the performing of the procedure, including an explanation of the type and possible effects of any anesthetic to be used.

(5) A description of the benefits or advantages that may be expected as a result of the hysterectomy.

(6) Approximate length of hospital stay.

(7) Approximate length of time for recovery.

(8) Financial cost to the patient of the physician and surgeon's fees.

(b) A woman shall sign a written statement prior to the performance of the hysterectomy procedure, indicating she has read and understood the written information provided pursuant to subdivision (a), and that this information has been discussed with her by her physician and surgeon, or his or her designee. The statement shall indicate that the patient has been advised by her physician or designee that the hysterectomy will render her permanently sterile and incapable of having children and shall accompany the claim, unless the patient has previously been sterile or is postmenopausal.

(c) The informed consent procedure shall not pertain when the hysterectomy is performed in a life-threatening emergency situation in which the physician determines prior written informed consent is not possible. In this case, a statement, handwritten and signed by the physician, certifying the nature of the emergency, shall accompany the claim.

(d) The State Department of Health Services may develop regulations establishing verbal and written informed consent procedures that shall be obtained prior to performance of a hysterectomy, that indicate the medically accepted justifications for performance of a hysterectomy, pursuant to this chapter.

1691. The failure of a physician and surgeon to inform a patient by means of written consent, in layman's language and in a language understood by the patient of alternative efficacious methods of treatment which may be medically viable, when a hysterectomy is to be performed, constitutes unprofessional conduct within the meaning of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

CHAPTER 1388

An act to amend Sections 50665.1, 53534, 53852, and 66493 of the Government Code, and to amend Sections 5024, 8570, 8624, 8652, 8687, 8751, 8752, 8760, 8769, 8832, 9503, 9607, 9613, 10204, 10312, 10401, 10402, 10402.5, 22525, and 36523 of, to add Chapter 29 (commencing with Section 5898.10) to Part 3 of Division 7 of, to add Sections 8502.5, 8751.5, and 9519.5 to, to repeal Sections 8761, 8762, 8763, and 8765 of, and to repeal and add Sections 8766, 8767, and 8768 of, the Streets and Highways Code, relating to local agency financing.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987]

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

SECTION 1. Section 50665.1 of the Government Code is amended to read:

50665.1. As used in this article:

(a) "Local agency" means any county, city, or city and county, including a chartered city, or special district, including a school district.

(b) "Legislative body" means the city council in the case of a city, and the board of supervisors in the case of a county.

(c) "Revenues" means the funds received by a local agency from any source or combination of sources, which a local agency is not precluded by any other provision of law from using for the purposes of this article. "Revenues" include the proceeds of ad valorem taxes on real property levied by, or allocated to, the local agency, and the proceeds of sales and use taxes.

(d) "Pledged revenue" means a specified annual dollar amount from a specified source or combination of sources of revenue, which the legislative body of a local agency, in a resolution providing for the issuance of limited obligation bonds, has designated and pledged as security for the bonds in accordance with Section 50665.7.

(e) "Limited obligation bonds" are bonds issued by a local agency which are to be paid solely from pledged revenue.

(f) "Initiating resolution" means a resolution by which a legislative body determines that public interest or necessity demands the issuance of bonds.

(g) "Resolution" means a resolution by which a legislative body authorizes the issuance, sale, and delivery of bonds.

SEC. 1.2. Section 53534 of the Government Code is amended to read:

53534. (a) Any provision of law to the contrary notwithstanding, a city, county, or city and county may enter into contracts commonly known as "interest rate swap agreements" or "forward payment conversion agreements" with any person providing for the exchange of payments between the person and the city, county, or city and

county, including, without limitation, contracts providing for the exchange of fixed interest payments for floating payments or floating interest payments for fixed payments, or a combination thereof. The contracts may be made upon the terms and conditions established by the legislative body of the city, county, or city and county. The authority conferred by this section includes the authority to enter into any and all contracts incident to the exercise of the authority conferred by this section including, without limitation, contracts to obtain credit enhancement devices and contracts for the performance of professional services. However, these contracts may be made only if all securities or bonds included in the contracts are rated in one of the three highest rating categories by two nationally recognized rating agencies selected by the legislative body of the city, county, or city and county, and if there has been receipt, from any rating agency rating the bonds, of written evidence that the contract will not adversely affect the rating.

(b) This section shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends that date. However, the repeal of this section on that date shall not affect the validity of any contracts entered into pursuant to subdivision (a) prior to January 1, 1996.

SEC. 1.4. Section 53852 of the Government Code is amended to read:

53852. On or after the first day of any fiscal year a local agency may borrow money pursuant to this article, the indebtedness to be represented by a note or notes issued to the lender pursuant to this article. The money borrowed may be used and expended by the local agency for any purpose for which the local agency is authorized to use and expend moneys, including but not limited to current expenses, capital expenditures, investment and reinvestment, and the discharge of any obligation or indebtedness of the local agency.

SEC. 1.6. Section 66493 of the Government Code is amended to read:

66493. (a) Whenever any part of the subdivision is subject to a lien for taxes or special assessments collected as taxes which are not yet payable, the final map or parcel map shall not be recorded until the owner or subdivider does both of the following:

(1) Files with the clerk of the board of supervisors of the county wherein any part of the subdivision is located, a certificate prepared by the appropriate state or local official giving his or her estimate of those taxes or assessments.

(2) Executes and files with the clerk of the board of supervisors of the county wherein any part of the subdivision is located, security conditioned upon the payment of all state, county, municipal, and local taxes and the current installment of principal and interest of all special assessments collected as taxes, which at the time the final map is recorded are a lien against the property, but which are not yet payable.

(b) If the land being subdivided is a portion of a larger parcel shown on the last preceding tax roll as a unit, the security for payment of taxes need be only for that sum as may be determined by the county to be sufficient to pay the current and delinquent taxes on the land being subdivided, together with all accrued penalties and costs if those taxes have been or are allowed to become delinquent. Separate assessor's parcel numbers shall be given to the portion of the larger parcel which is not within the proposed subdivision and to the parcel or parcels which are within the proposed subdivision.

If the land being subdivided is tax-defaulted, it may be redeemed without the redemption of the remainder of the larger parcel of which it is a part pursuant to the Revenue and Taxation Code as if it were held in ownership separate from and other than the ownership of the remainder.

(c) Whenever land subject to a special assessment or bond which may be paid in full is divided by the line of a lot or parcel of the subdivision, that assessment or bond shall be paid in full, or security shall be filed with the clerk of the board of supervisors, payable to the county as trustee for the assessment bondholders for the payment of the special assessment or bond.

(d) Whenever land subject to a special assessment for payment of a bond would be divided by the line of a lot or parcel of a subdivision, and which is not paid in full or secured pursuant to subdivision (c), the final map or parcel map shall not be recorded until the owner or subdivider files with the clerk of the board of supervisors of the county a certificate prepared by the clerk of the legislative body that created the assessment district. The certificate shall certify that the legislative body has determined that provision has been made for segregation of the responsibility of each of the proposed new parcels for a portion of the assessment payment obligation in the manner provided in the statute pursuant to which the assessments were levied or to which the bonds were issued.

(e) The amount of security for "taxes" in subdivision (a) or "current taxes" for subdivision (b), shall consider only amounts shown on the regular assessment roll or shown on any supplemental rolls prepared pursuant to Chapter 3.5 (commencing with Section 75) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

SEC. 1.5. Section 66493 of the Government Code is amended to read:

66493. (a) Whenever any part of the subdivision is subject to a lien for taxes or special assessments collected as taxes which are not yet payable, the final map or parcel map shall not be recorded until the owner or subdivider does both of the following:

(1) Files with the clerk of the board of supervisors of the county wherein any part of the subdivision is located a certificate or statement prepared by the appropriate state or local official giving his or her estimate of those taxes or assessments.

(2) Executes and files with the clerk of the board of supervisors of the county wherein any part of the subdivision is located, security

conditioned upon the payment of all state, county, municipal, and local taxes and the current installment of principal and interest of all special assessments collected as taxes, which at the time the final map is recorded are a lien against the property, but which are not yet payable.

(b) If the land being subdivided is a portion of a larger parcel shown on the last preceding tax roll as a unit, the security for payment of taxes need be only for the sum which may be determined by the county to be sufficient to pay the current and delinquent taxes on the land being subdivided, together with all accrued penalties and costs if those taxes have been or are allowed to become delinquent. Separate assessor's parcel numbers shall be given to the portion of the larger parcel which is not within the proposed subdivision and to the parcel or parcels which are within the proposed subdivision.

If the land being subdivided is tax-defaulted, it may be redeemed without the redemption of the remainder of the larger parcel of which it is a part pursuant to the Revenue and Taxation Code as if it were held in ownership separate from and other than the ownership of the remainder.

(c) Whenever land subject to a special assessment or bond which may be paid in full is divided by the line of a lot or parcel of the subdivision, that assessment or bond shall be paid in full, or security shall be filed with the clerk of the board of supervisors, payable to the county as trustee for the assessment bondholders for the payment of the special assessment or bond.

(d) Whenever land subject to a special assessment for payment of a bond would be divided by the line of a lot or parcel of a subdivision, and which is not paid in full or secured pursuant to subdivision (c), the final map or parcel map shall not be recorded until the owner or subdivider files with the clerk of the board of supervisors of the county a certificate prepared by the clerk of the legislative body that created the assessment district. The certificate shall certify that the legislative body has determined that provision has been made for segregation of the responsibility of each of the proposed new parcels for a portion of the assessment payment obligation in the manner provided in the statute pursuant to which the assessments were levied or to which the bonds were issued.

(e) In computing the amount of security for "taxes" in subdivision (a) or "current taxes" in subdivision (b), it shall only be necessary to consider amounts shown on the regular assessment roll or shown on any supplemental rolls prepared pursuant to Chapter 3.5 (commencing with Section 75) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

SEC. 2. Section 5024 of the Streets and Highways Code is amended to read:

5024. "Incidental expense" includes all of the following:

(a) The compensation of the engineer for work done by him or her, and attorney's fees for services in proceedings pursuant to this division.

(b) The cost of printing and advertising provided for in this division, including the treasurer's estimated cost of printing, servicing, and collecting any bonds to be issued to represent or be secured by unpaid assessments.

(c) The compensation of the person appointed by the superintendent of streets to take charge of, and superintend any of, the work.

(d) The expenses of making the assessment, and of the collection of assessments by the superintendent of streets when directed by ordinance to receive payments pursuant to Section 5396, and of preparing and typing the resolutions, notices, and other papers and proceedings for any work authorized by this division.

(e) The expenses of making any analysis and tests to determine that the work, and any materials or appliances incorporated therein, comply with the specifications.

(f) All costs and expenses incurred in carrying out the investigations and making the reports required by the provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 (commencing with Section 2800)).

(g) The cost of title searching, description writing, salaries of right-of-way agent, appraisal fees, partial reconveyance fees, surveys, and sketches incident to securing rights-of-way for any work authorized by this division.

(h) Any other expenses incidental to the construction, completion, and inspection of the work in the manner provided for in this division.

(i) The cost of relocating or altering any public utility facilities as required by the improvement in those cases where such cost is the legal obligation of the city.

(j) In a county having a population of 4,000,000 or over, the cost of purchasing plans prepared by a registered civil engineer engaged by owners.

(k) The cost of filing and of recording documents where the cost is the legal obligation of the city.

(*l*) The cost of any acquisition, as defined in Section 5023.1, and expenses incidental in connection with the acquisition.

(m) In the event that the construction of sewers or appurtenances incident thereto shall have been ordered, sewer service, connection, and capacity charges established by the city as a condition to the providing of sewer service for the benefit of properties within the assessment district, and required for the completion and utilization of the improvement constructed.

(n) In the event that the construction of water improvements or appurtenances incident thereto shall have been ordered, water service, connection, and capacity charges established by the city as a condition to the providing of water service for the benefit of properties within the assessment district, and required for the completion and utilization of the improvement constructed.

(o) All costs not identified in subdivisions (a) to (n), inclusive,

related to the issuance of bonds, including, but not limited to, costs of obtaining credit ratings, bond insurance premiums, fees for letters of credit and other credit enhancement costs, and initial fees for the registration of bonds.

All demands for incidental expenses shall be presented to the street superintendent, by an itemized bill, duly verified by the demandant.

SEC. 3. Chapter 29 (commencing with Section 5898.10) is added to Part 3 of Division 7 of the Streets and Highways Code, to read:

CHAPTER 29. CONTRACTUAL ASSESSMENTS

Article 1. General Provisions

5898.10. This chapter provides an alternative procedure for authorizing assessments to finance any work which may be done pursuant to this division. The terms and definitions of this division apply to this chapter, except as otherwise provided. The Special Assessment Investigation, Limitation, and Majority Protest Act of 1931 (Division 4 (commencing with Section 2800)) does not apply to any proceedings taken under this chapter.

5898.12. It is the intent of the Legislature that this chapter should be used to finance public improvements to lots or parcels which are developed and where the costs and time delays involved in creating an assessment district pursuant to other provisions of this division or any other law would be prohibitively large relative to the cost of the public improvements to be financed. This chapter shall not be used to finance facilities for parcels which are undergoing development. Assessments may be levied pursuant to this chapter only with the free and willing consent of the owner of each lot or parcel on which an assessment is levied at the time the assessment is levied.

Article 2. Creation of Contractual Assessment Program

5898.20. (a) The legislative body of any city may determine that it would be convenient and advantageous to designate an area within the city, which may encompass the entire city or a lesser portion, within which authorized city officials and property owners may enter into contractual assessments and to make financing arrangements pursuant to this chapter.

(b) The legislative body shall make these determinations by adopting a resolution indicating its intention to do so. The resolution of intention shall include a statement that the city proposes to make contractual assessment financing available to property owners, shall identify the kinds of public works which may be financed, shall describe the boundaries of the area within which contractual assessments may be entered into, and shall briefly describe the proposed arrangements for financing the program. The resolution shall state that a public hearing should be held at which interested

persons may object to or inquire about the proposed program or any of its particulars, and shall state the time and place of the hearing. The resolution shall direct an appropriate city official to prepare a report pursuant to Section 5898.22.

5898.22. The report shall contain all of the following:

(a) A map showing the boundaries of the territory within which contractual assessments are proposed to be offered.

(b) A draft contract specifying the terms and conditions that would be agreed to by a property owner within the contractual assessment area and the city.

(c) A statement of city policies concerning contractual assessments including all of the following:

(1) Identification of types of facilities which may be financed through the use of contractual assessments.

(2) Identification of a city official authorized to enter into contractual assessments on behalf of the city.

(3) A maximum aggregate dollar amount of contractual assessments.

(4) A method for setting requests from property owners for financing through contractual assessments in priority order in the event that requests appear likely to exceed the authorization amount.

(d) A plan for raising a capital amount required to pay for work performed pursuant to contractual assessments. The plan may include amounts to be advanced by the city through funds available to it from any source. The plan may include the sale of a bond or bonds or other financing relationship pursuant to Section 5898.28. The plan shall include a statement of or method for determining the interest rate and time period during which contracting property owners would pay any assessment. The plan shall provide for any reserve fund or funds. The plan shall provide for the apportionment of all or any portion of the costs incidental to financing, administration, and collection of the contractual assessment program among the consenting property owners and the city.

5898.24. A notice of the hearing shall be published pursuant to Section 6066 of the Government Code, and the first publication shall occur not later than 20 days before the date of the hearing.

5898.26. At the time of the hearing, the report shall be summarized and the legislative body shall afford all persons who are present an opportunity to comment upon, object to, or present evidence with regard to the proposed contractual assessment program, the extent of the area proposed to be included within the program, the terms and conditions of the draft contract, or the proposed financing provisions. At the conclusion of the hearing, the legislative body may adopt a resolution confirming the report or may direct its modification in any respect, and thereafter may adopt a resolution confirming the report as modified, or the legislative body may abandon the proceedings. However, the legislative body may not increase the area within which contractual assessments would be

offered without providing notice of the proposed increase in area pursuant to Section 5808.24. The hearing may be continued from time to time not exceeding a total of 180 days.

5898.28. A city may issue bonds pursuant to this chapter, the principal and interest for which would be repaid by contractual assessments. A city may advance its own funds to finance work to be repaid through contractual assessments, and may from time to time sell bonds to reimburse itself for such advances. A city may enter into a relationship with an underwriter or financial institution that would allow the sequential issuance of a series of bonds, each bond being issued as the need arose to finance work to be repaid through contractual assessments. The interest rate of each bond may be determined by an appropriate index, but shall be fixed at the time each bond is issued. Bond proceeds may be used to establish a reserve fund, and to pay for expenses incidental to the issuance and sale of the bonds. Division 10 (commencing with Section 8500) shall apply to any bonds issued pursuant to this section, insofar as that division is not in conflict with this chapter.

5898.30. Assessments levied pursuant to this chapter, and the interest and any penalties thereon shall constitute a lien against the lots and parcels of land on which they are made, until they are paid. Division 10 (commencing with Section 8500) applies to the levy and collection of assessments levied pursuant to this chapter, insofar as those provisions are not in conflict with the provisions of this chapter, including, but not limited to, any penalties and remedies and lien priorities in the event of delinquency and default.

5898.32. The legislative body shall direct its clerk to record a notice of the existence and amount of each contractual assessment with the county recorder of the county in which the lot or parcel is located. The county recorder shall accept those filings and may charge the clerk a fee for recording those documents pursuant to Section 3116. The failure of the clerk or recorder to perform the filings shall not subject the local agency or any of its officers or employees to civil liability.

SEC. 4. Section 8502.5 is added to the Streets and Highways Code, to read:

8502.5. "Assessed" and "assessment" mean assessments made pursuant to subdivisions (d) and (e) of Section 10204, as corrected and modified by the legislative body. "Assessed" and "assessment" do not include assessments to pay administrative costs made pursuant to subdivision (f) of Section 10204.

SEC. 5. Section 8570 of the Streets and Highways Code is amended to read:

8570. The legislative body of any city may determine that serial bonds shall be issued as provided in this division to represent and be secured by the assessments which shall be made to pay the cost of any work or improvement which is made in any of the streets, avenues, lanes, alleys, courts, places or public ways of the city, or in, over, or through any property or rights-of-way owned by the city,

and which is authorized by Part 1 (commencing with Section 4000) of Division 6 (Street Opening Act of 1903) or by Division 7 (commencing with Section 5000) (Improvement Act of 1911), or which is made to pay the cost of any other work or improvement which is charged and assessed upon real property pursuant to any other provision of law. The legislative body may not issue bonds secured by assessments levied pursuant to subdivision (b) of Section 10312 to pay administrative costs.

SEC. 6. Section 8624 of the Streets and Highways Code is amended to read:

8624. The estimated cost of incidental expenses, as defined in Section 5024, of the work shall be included in the assessment issued to the contractor.

SEC. 7. Section 8652 of the Streets and Highways Code is amended to read:

8652. The bonds shall be substantially in the following form:

United States of America
State of California
County of _____

REGISTERED	REGISTERED
Number	$

IMPROVEMENT BOND
City (or County) of (naming it)

SERIES NO. _____

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NUMBER
		_____, 19__	

Under and by virtue of the Improvement Bond Act of 1915, Division 10 (commencing with Section 8500) of the Streets and Highways Code (the "Act"), the City (or County) of _____, County of _____, State of California, (the "City" or "County") will, out of the redemption fund for the payment of the bonds issued upon the unpaid portion of assessments made for the acquisition, work, and improvements more fully described in proceedings taken pursuant to Resolution of Intention No. _____, adopted by the (legislative body) of the City (or County) of _____ on the _____ day of _____, 19__, (as later amended), pay to _____ or registered assigns, on the maturity date stated above, the principal sum of _____, in lawful money of the United States of America and in like manner will pay interest from the interest payment date next preceding the date on which this bond is authenticated, unless this bond is authenticated and registered as of an interest payment date, in which event it shall bear interest from such interest payment date,

or unless this bond is authenticated and registered prior to _____, 19__, (first interest payment date) in which event it shall bear interest from its date, until payment of such principal sum shall have been discharged, at the rate per annum stated above, payable semiannually on March 2 and September 2 in each year commencing on _____, 19____. Both the principal hereof and redemption premium hereon are payable at _____ as Transfer Agent, Registrar, and Paying Agent, in _____, California, and the interest hereon is payable by check or draft mailed to the owner hereof at the owner's address as it appears on the records of the _____ (issuing agency or registration agent) or at such address as may have been filed with the _____ (issuing agency or registration agent) for that purpose, as of the 15th day immediately preceding each interest payment date.

This bond will continue to bear interest after maturity at the rate above stated; provided, it is presented at maturity and payment thereof is refused upon the sole ground that there are not sufficient moneys in said redemption fund with which to pay same. If it is not presented at maturity, interest thereon will run until maturity.

This bond shall not be entitled to any benefit under the Act or the Resolution Authorizing Issuance of Bonds (the "Resolution of Issuance"), or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon endorsed shall have been dated and signed by the _____ (issuing agency or registration agent).

IN WITNESS WHEREOF, said City (or County) of _____ has caused this bond to be signed in facsimile by the Treasurer of said City (or County) and by its Clerk, and has caused its corporate seal to be reproduced in facsimile hereon all as of the _____ day of _____, 19__.

CITY (OR COUNTY) OF _____

_____	_____
Clerk	Treasurer

[SEAL]

Certificate of Authentication and Registration

This is one of the bonds described in the within mentioned Resolution of Issuance, which has been authenticated and registered on

By _____

ADDITIONAL PROVISIONS OF THE BOND

This bond is one of several annual series of bonds of like date, tenor, and effect, but differing in amounts, maturities, and interest rates, issued by the City (or County) of _____ under the Act and the Resolution of Issuance, for the purpose of providing means for paying for the improvements described in the proceedings, and is secured by the moneys in said redemption fund and by the unpaid portion of said assessments made for the payment of said improvements, and, including principal and interest, is payable exclusively out of said fund.

This bond is transferable by the registered owner hereof, in person or by the owner's attorney duly authorized in writing, at the office of _____ (issuing agency or its registration agent), subject to the terms and conditions provided in the Resolution of Issuance, including the payment of certain charges, if any, upon surrender and cancellation of this bond. Upon such transfer, a new registered bond or bonds, of any authorized denomination or denominations, of the same maturity, for the same aggregate principal amount, will be issued to the transferee in exchange therefor.

Bonds shall be registered only in the name of an individual (including joint owners), a corporation, a partnership, or a trust.

Neither the issuing agency nor the registration agent shall be required to make such exchange or registration of transfer of bonds during the 15 days immediately preceding any interest payment date.

The issuing agency and the registration agent may treat the owner hereof as the absolute owner for all purposes, and the issuing agency and the registration agent shall not be affected by any notice to the contrary.

This bond or any portion of it in the amount of five thousand dollars ($5,000), or any integral multiple thereof, may be redeemed and paid in advance of maturity upon the second day of March or September in any year by giving at least 30 days' notice by registered or certified mail or by personal service to the registered owner hereof at the owner's address as it appears on the registration books of the _____ (issuing agency or registration agent) by paying principal and accrued interest together with a premium equal to _____ percentum of the principal.

This bond is not subject to refunding pursuant to the procedures of Division 11 (commencing with Section 9000) or Division 11.5 (commencing with Section 9500) of the Streets and Highways Code prior to _____, _____.

I hereby certify that the following is a correct copy of the signed legal opinion of _____

City (or County) Clerk

SEC. 8. Section 8687 of the Streets and Highways Code is amended to read:

8687. Any assessment may be paid by depositing with the treasurer the total unpaid balance due on the assessment together with the total interest which would become due on the assessment if it were paid in the regular way. If the amount of the payment, along with prepayments of other assessments, is sufficient to provide surplus moneys with which to redeem any bond outstanding and not due on the next succeeding second day of September, the treasurer shall then give the proper notice for redeeming such bond, by advancing its maturity in accordance with the provisions of Part 11 (commencing with Section 8750) upon which redemption the person paying the assessment shall be entitled to credit and reimbursement for the par value of any interest payments thereon which shall be canceled but not paid less any accrued interest paid thereon and less the premium paid on the bond, and less any costs incurred for administering the retirement of the bond. The treasurer shall also record an addendum to the notice of assessment recorded pursuant to Section 3114 which shall state that the recorded assessment against the identified parcel or parcels has been paid in full, and that the associated lien against those parcels has been fully discharged.

SEC. 9. Section 8751 of the Streets and Highways Code is amended to read:

8751. Notice of advanced maturity shall be given in writing to the registered holder or owner of the bond by registered or certified mail or personal service. Service or mailing of the notice shall be made at least 30 days before the date fixed for advanced maturity.

SEC. 9.5. Section 8751.5 is added to the Streets and Highways Code, to read:

8751.5. In the event the treasurer receives for payment any interest coupon from a bond for which notice of advanced maturity has been given without the bond being surrendered to him or her, he or she shall mail a copy of the notice of advanced maturity to the address given for payment of the coupon and, if the coupon received is for interest which has ceased to accrue on the bond by reason of its advanced maturity, shall also return the interest coupon with the copy of notice. Failure of the holder or owner of the bond to receive the additional notice shall not affect the advancing of the maturity of the bond.

SEC. 10. Section 8752 of the Streets and Highways Code is amended to read:

8752. If notice of advanced maturity is given, the bond shall mature and become payable on the date fixed for maturity in the notice. The holder or owner of the bond may, prior to the date of advanced maturity, with the consent of the treasurer, surrender it and receive the principal and interest thereon to the date of payment together with the redemption premium provided for the bond. If the bond has not been sooner surrendered on the date fixed for advanced maturity, the treasurer shall set aside to the credit of the owner of the bond the amount of principal and accrued interest

then due on the bond together with the redemption premium and the bond shall then be deemed to have matured and interest shall cease to accrue on the bond. The amount so set aside shall upon demand and upon the surrender and cancellation of the bond be paid to the holder or owner of the bond.

SEC. 11. Section 8760 of the Streets and Highways Code is amended to read:

8760. The procedures of this part are alternative to Part 8 (commencing with Section 8680) and Part 11 (commencing with Section 8750) relating to the payment in full of assessments and advance retirement of bonds. Except as otherwise provided, Part 8 (commencing with Section 8680) and Part 11 (commencing with Section 8750) shall apply. When it is proposed to proceed under this part, it shall be so stated in the resolution of intention.

SEC. 12. Section 8761 of the Streets and Highways Code is repealed.

SEC. 13. Section 8762 of the Streets and Highways Code is repealed.

SEC. 14. Section 8763 of the Streets and Highways Code is repealed.

SEC. 15. Section 8765 of the Streets and Highways Code is repealed.

SEC. 16. Section 8766 of the Streets and Highways Code is repealed.

SEC. 17. Section 8766 is added to the Streets and Highways Code, to read:

8766. The owner of assessed land, except land which has been ordered to judicial foreclosure pursuant to Section 8830, may prepay the assessment and remove the lien of the assessment by paying to the treasurer the sum of the following amounts.

(a) The amount of any delinquent installments of principal and interest, together with penalties accrued to the date of prepayment.

(b) The unpaid, nondelinquent principal of the assessment, including principal posted to the tax roll for the current fiscal year but not yet paid.

(c) An allowance for redemption premium, calculated by multiplying the amount of the unmatured principal by the redemption premium percentage stated in the bonds. Unmatured principal excludes principal due during the fiscal year of prepayment.

(d) A reasonable fee, fixed by the treasurer, for the cost of administering the prepayment and the advance redemption of bonds.

(e) Interest accrued to the next call date of the bonds. The next call date shall be the next bond interest payment date which is not less than 90 days after the date of prepayment. Credit shall be given, or a refund provided, for installments of interest posted to the current tax roll and actually paid.

SEC. 18. Section 8767 of the Streets and Highways Code is

repealed.

SEC. 19. Section 8767 is added to the Streets and Highways Code, to read:

8767. Upon receiving a prepayment of an assessment, the treasurer shall deposit it in an assessment prepayment subaccount of the bond redemption fund. All prepayments may be commingled in a single account. From the account the treasurer shall make disbursements as follows:

(a) The administrative fee shall be deposited in the general fund of the city.

(b) Delinquent principal, interest, and penalties shall be transferred to the redemption fund for the bonds. If a special reserve fund has been established for the bonds and has been depleted on account of the delinquencies, the delinquent amounts and penalties shall be transferred instead to the special reserve fund.

(c) The installment of principal due in the fiscal year of prepayment shall be transferred to the redemption fund for the bonds.

(d) Interest accrued to the next call date shall be transferred to the redemption fund for the bonds.

(e) The balance in the assessment prepayment account shall be used to advance the maturity of bonds to the next call date as provided in Part 11 (commencing with Section 8750). The amount of bonds to be retired shall be the maximum for which principal and redemption premium may be paid in full from the prepayment account. Accrued interest on bonds to be retired shall be paid from the redemption fund.

SEC. 20. Section 8768 of the Streets and Highways Code is repealed.

SEC. 21. Section 8768 is added to the Streets and Highways Code, to read:

8768. The treasurer shall select bonds for retirement in such a way that the ratio of outstanding bonds to issued bonds shall be approximately the same in each annual series insofar as possible. Within each annual series, bonds shall be selected for retirement by lot.

SEC. 22. Section 8769 of the Streets and Highways Code is amended to read:

8769. Before issuing bonds pursuant to this division, the legislative body shall determine, and shall declare in the resolution of intention, one of the following:

(a) The city will obligate itself to advance available funds from the city treasury to cure any deficiency which may occur in the bond redemption fund.

(b) The city will not obligate itself to advance available funds from the city treasury to cure any deficiency which may occur in the bond redemption fund. A determination not to obligate itself shall not prevent the city from, in its sole discretion, so advancing funds.

The determination made pursuant to this section shall be clearly

stated in the text of the bonds issued pursuant to this division, and the title of the bonds shall include the words "Limited Obligation Improvement" in the event that the declaration in subdivision (b) is made.

SEC. 22.5. Section 8832 of the Streets and Highways Code is amended to read:

8832. (a) The court shall have the power to adjudge and decree a lien against the lot or parcel of land covered by the assessment or reassessment for the amount of the judgment and to order the premises to be sold on execution as in other cases of the sale of real property by the process of the court.

(b) The lot or parcel may not be sold unless the amount to be paid pursuant to the bid equals or exceeds the amount of the judgment with costs and interest, costs and interest accruing after issuance of the writ pursuant to which the sale is conducted, the levying officer's costs, and any other amounts the total of which is required by law to be bid in order that the lot or parcel may be sold.

(c) The foreclosure action shall be governed and regulated by the provisions of this part, and where not in conflict with this part, by the applicable laws of this state.

SEC. 23. Section 9503 of the Streets and Highways Code is amended to read:

9503. The legislative body of any city in this state may issue refunding bonds and refund outstanding bonds issued either under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500)) or under this division, under and subject to this division, and may provide for the extension of the liens of assessments and the levy and collection of assessments and reassessments to pay the refunding bonds. All or any portion of any bond issue authorized for refunding by this section may be refunded pursuant to this section.

SEC. 24. Section 9519.5 is added to the Streets and Highways Code, to read:

9519.5. Sections 8571.3 and 8769 are applicable to this division.

SEC. 25. Section 9607 of the Streets and Highways Code is amended to read:

9607. The last maturity of any refunding bonds shall not exceed 39 years from the second day of September next succeeding 12 months after the date of the bonds.

SEC. 26. Section 9613 of the Streets and Highways Code is amended to read:

9613. Refunding bonds issued pursuant to this chapter may be exchanged for the bonds to be refunded on any basis the legislative body determines is for the benefit of the city if the bondholders consent to the exchange. As an alternative to exchanging the refunding bonds for the bonds to be refunded, the legislative body may sell the refunding bonds at public or private sale and at a price at or below par or with a premium. The proceeds of any sale of refunding bonds for cash shall be placed in the treasury of the local

agency to the credit of a fund to be established for the purpose of refunding the bonds to be refunded, and the proceeds shall be applied only as permitted by this division.

SEC. 27. Section 10204 of the Streets and Highways Code is amended to read:

10204. The report of the person or board to whom the improvement is referred by the legislative body shall contain all of the following:

(a) Plans and specifications of the proposed improvement if the improvement is not already installed. The plans and specifications need not be detailed and are sufficient if they show or describe the general nature, location, and extent of the improvements. If the assessment district is divided into zones, the plans and specifications shall indicate the class and the type of improvements to be provided for each zone. The plans or specifications may be prepared as separate documents, or either or both may be incorporated in the report as a combined document.

(b) A general description of works or appliances already installed and any other property necessary or convenient for the operation of the improvement, if the works, appliances, or property are to be acquired as part of the improvement.

(c) An estimate of the cost of the improvement and of the cost of lands, rights-of-way, easements, and incidental expenses in connection with the improvement, including any cost of registering bonds. If the legislative body, in the resolution of intention, ordered that private utility damages be included in the assessment, the report shall contain an estimate of the private utility damages. If the legislative body, in the resolution of intention, declared its intention to levy an assessment for the maintenance, repair, or improvement of the work, system, or facility, the report shall contain an estimate of the amount of this assessment for each of the first five years during which the assessment would be levied.

(d) A diagram showing, as they existed at the time of the passage of the resolution of intention, all of the following:

(1) The exterior boundaries of the assessment district.

(2) The boundaries of any zones within the district.

(3) The lines and dimensions of each parcel of land within the district.

Each subdivision, including each separate condominium interest, as defined in Section 783 of the Civil Code, shall be given a separate number upon the diagram. The diagram may refer to the county assessor's maps for a detailed description of the lines and dimensions of any parcels, in which case those maps shall govern for all details concerning the lines and dimensions of the parcels.

(e) A proposed assessment of the total amount of the cost and expenses of the proposed improvement upon the several subdivisions of land in the district in proportion to the estimated benefits to be received by each subdivision, respectively, from the improvement. In the case of an assessment for installation of planned

local drainage facilities which are financed, in whole or in part, pursuant to Section 66483 of the Government Code, the assessment levied against each parcel of subdivided land may be levied on the basis of the proportionate storm water runoff from each parcel. When any portion or percentage of the cost and expenses of the improvement is ordered to be paid out of the treasury of the municipality, pursuant to Section 10201, the amount of that portion or percentage shall first be deducted from the total estimated cost and expenses of the improvement, and the assessment upon property proposed in the report shall include only the remainder of the estimated cost and expenses. The assessment shall refer to the subdivisions by their respective numbers as assigned pursuant to subdivision (d).

(f) A proposed maximum annual assessment upon each of the several subdivisions of land in the district to pay costs incurred by the city and not otherwise reimbursed which result from the administration and collection of assessments or from the administration or registration of any associated bonds and reserve or other related funds.

SEC. 28. Section 10312 of the Streets and Highways Code is amended to read:

10312. (a) When, upon the hearing, the proposed assessment provided for in subdivisions (d) and (e) of Section 10204, and the maximum annual assessment provided for in subdivision (f) of that section, are confirmed as filed, as modified, or corrected, by resolution, the legislative body shall order the proposed improvement to be made or acquired, and declare its action upon the report and assessment. The resolution shall be final as to all persons, and the assessment thereby levied upon the respective subdivisions of land in the assessment district.

(b) If an annual assessment to pay for administrative cost is provided for pursuant to subdivision (a), the legislative body shall determine, by resolution, the amount of the annual assessment for this purpose, which shall not exceed the maximum assessment provided for in subdivision (a) and shall not exceed a reasonable estimate of costs actually incurred or likely to be incurred. This determination may be included in the resolution adopted pursuant to subdivision (a). The legislative body may subsequently determine by resolution that the annual assessment shall be a different amount, but in no event shall the annual assessment exceed the maximum annual assessment provided for in subdivision (a). Resolutions adopted pursuant to this subdivision shall be final as to all persons, and the annual assessment in the amount determined shall thereby be levied annually until changed by resolution adopted pursuant to this section. These assessments may be collected in the same manner and in the same installments as the assessments levied pursuant to subdivision (a), and may be combined with those assessments for collection in any manner which is convenient and economical.

SEC. 29. Section 10401 of the Streets and Highways Code is

amended to read:

10401. Upon the passage of the resolutions provided for in Section 10312, the clerk of the legislative body shall, if bonds are to be issued, transmit to the superintendent of streets, or if no bonds are to be issued, to the city tax collector the diagram and assessments adopted pursuant to Section 10312. If other than a municipal corporation is conducting the proceeding, the diagram and assessment shall be transmitted to and recorded by the corresponding officer of the entity conducting the proceeding, which officer shall be the county surveyor if a county is conducting the proceeding, and that officer shall perform the duties provided in this division for the tax collector. If neither a municipal corporation nor a county is conducting the proceeding, a certified copy of the diagram and assessment shall be recorded with the county surveyor if all or any part of the improvement district is in unincorporated territory, and with the superintendent of streets or tax collector of the city if all or any part of the improvement district is an incorporated territory.

SEC. 30. Section 10402 of the Streets and Highways Code is amended to read:

10402. The tax collector shall record the diagram and assessment received pursuant to Section 10401 in a substantial book to be kept for that purpose in his office. Upon the date of recordation with the tax collector or, if a certified copy is recorded with the county surveyor or the superintendent of streets of the city, or both, as provided in Section 10401, then upon the date of recordation, the assessment becomes due and payable, except that the legislative body may provide in the resolution adopted pursuant to Section 10312 that all or any portion of the assessment becomes due and payable on the date of the bonds which represent the assessments or portion thereof.

SEC. 31. Section 10402.5 of the Streets and Highways Code is amended to read:

10402.5. Upon the passage of the resolution provided for in subdivision (a) of Section 10312, the city clerk shall record a notice of assessment, as provided for in Section 3114, modified to reflect any annual assessment for administrative cost, whereupon the assessment shall attach as a lien upon the property assessed, as provided in Section 3115, except that the annual assessment for administrative cost shall become a lien at the same time as the property tax becomes a lien each year.

SEC. 32. Section 22525 of the Streets and Highways Code is amended to read:

22525. "Improvement" means one or any combination of the following:

(a) The installation or planting of landscaping.

(b) The installation or construction of statuary, fountains, and other ornamental structures and facilities.

(c) The installation or construction of public lighting facilities.

(d) The installation or construction of any facilities which are

appurtenant to any of the foregoing or which are necessary or convenient for the maintenance or servicing thereof, including grading, clearing, removal of debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities.

(e) The installation of park or recreational improvements, including, but not limited to, all of the following:

(1) Land preparation, such as grading, leveling, cutting and filling, sod, landscaping, irrigation systems, sidewalks, and drainage.

(2) Lights, playground equipment, play courts, and public restrooms.

(f) The maintenance or servicing, or both, of any of the foregoing.

(g) The acquisition of land for park, recreational, or open-space purposes.

SEC. 33. Section 36523 of the Streets and Highways Code is amended to read:

36523. Whenever a hearing is held under this part, the city council shall hear all protests and receive evidence, including written protests, for or against the proposed action. The city council shall also rule upon all protests and its determination shall be final. The city council may continue the hearing from time to time. Proceedings shall terminate if a protest is made in writing by businesses in the proposed area which will pay a majority of the assessments or charges proposed to be imposed.

SEC. 34. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 35. Section 1.5 of this bill incorporates amendments to Section 66493 of the Government Code proposed by both this bill and AB 1208. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1988, (2) each bill amends Section 66493 of the Government Code, and (3) this bill is enacted after AB 1208, in which case Section 1 of this bill shall not become operative.

CHAPTER 1389

An act to add Section 4701.1 to the Civil Code, relating to child support.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 4701.1 is added to the Civil Code, to read:

4701.1. (a) (1) Subject to subdivisions (b) and (c), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, upon an order to show cause or notice of motion, application, and declaration signed under penalty of perjury by the person or county officer to whom support has been ordered to have been paid stating that the parent or parents so ordered is in arrears in payment in a sum equal to the amount of 60 days of payments, the court shall issue to the parent or parents ordered to pay support, following notice and opportunity for a hearing, an order requiring that the parent or parents deposit assets to secure future support payments with the district attorney, other county officer, or any other trustee designated by the court. Upon request of any party the court may also issue an ex parte restraining order as specified in subdivision (d). Upon deposit of any asset which is not readily convertible into money, the court may, not less than 20 days after serving the obligor-parent or parents with written notice and a hearing, order the sale of that asset or assets and the deposit of the proceeds with the person designated under this subdivision. For purposes of Section 701.545 of the Code of Civil Procedure, the date of the issuance of the order to deposit assets shall be construed as the date notice of levy on an interest in real property was served on the judgment debtor. When the asset ordered to be deposited is real property, the order shall be certified as an abstract of judgment in accordance with Section 674 of the Code of Civil Procedure. A deposit of real property is made effective by recordation of the certified abstract with the county recorder. The deposited real property and the rights, benefits, and liabilities attached to that property shall continue in the possession of the legal owner.

(2) Upon an obligor-parent's failure, within the time specified by the court, to make reasonable efforts to cure the default in child support payments or to comply with a court-approved payment plan, if payments continue in the arrears, the district attorney, county officer, or trustee designated by the court shall, not less than 25 days after providing the obligor-parent or parents with a written notice served personally or with return receipt requested, unless a motion or order to show cause has been filed to stop the use or sale, use the money or sell or otherwise process the deposited assets for an amount sufficient to pay the arrearage and the amount ordered by the court

for the support, maintenance, and education of the minor child currently due.

Assets which have been deposited pursuant to an order issued in accordance with paragraph (1) shall be construed as being assets subject to levy pursuant to Article 6 (commencing with Section 701.510) of Chapter 3 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure. The sale of assets shall be conducted in accordance with Article 6 (commencing with Section 701.510) and Article 7 (commencing with Section 701.810) of Chapter 3 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(3) The district attorney, county officer, or trustee designated by the court may deduct from the deposited money the sum of one dollar ($1) for each payment made pursuant to paragraph (2).

(4) An obligor-parent alleged to be in arrears under this section may employ any of the following grounds as a defense to the motion filed pursuant to paragraph (1) or as a basis for filing a motion to stop a sale or use of assets under paragraph (2):

(A) Child support payments are not in arrears.

(B) Laches.

(C) There has been a change in the custody of the children.

(D) There is a pending motion for reduction in support due to a reduction in income.

(E) Illness or disability.

(F) Unemployment.

(G) Serious adverse impact on the immediate family of the obligor-parent residing with the obligor-parent, that outweighs the impact of denial of the motion or stopping the sale on obligee.

(H) Serious impairment of the ability of the obligor-parent to generate income.

(I) Other emergency conditions.

An obligor-parent must rebut the presumptions that nonpayment of child support was willful, without good faith, and that the obligor had the ability to pay the support.

An obligor-parent may file a motion to stop the use of the money or the sale of the asset pursuant to paragraph (2) within 15 days after service of notice on him or her pursuant to paragraph (2). The clerk of the court shall set the motion for hearing not less than 20 days after service on the person or county officer to whom support has been ordered to have been paid.

(b) The court shall issue an order pursuant to paragraph (1) of subdivision (a) upon a determination that one or more of the following conditions exists:

(1) The obligor-parent is not receiving salary or wages subject to an assignment pursuant to Section 4701 and there is reason to believe that he or she has earned income from some source of employment.

(2) An assignment of a portion of salary or wages pursuant to Section 4701 would not be sufficient to meet the amount of the support obligation, for reasons other than a change of circumstances which would qualify for a reduction in the amount of child support

ordered.

(3) The job history of the obligor-parent shows that an assignment of a portion of salary or wages pursuant to Section 4701 would be difficult to enforce or would not be a practical means for securing the payment of the support obligation, due to circumstances including, but not limited to, multiple concurrent or consecutive employers.

(c) The designation of assets subject to an order pursuant to paragraph (1) of subdivision (a) shall be based upon concern for maximizing the liquidity and ready conversion into cash of the deposited asset. In all instances, the assets shall include a sum of money up to or equal in value to one year of support payments or six thousand dollars ($6,000) whichever is less, or any other assets, personal or real, designated by the court which equal in value up to one year of payments for support of the minor child, or six thousand dollars ($6,000), whichever is less, subject to Section 703.070 of the Code of Civil Procedure. In lieu of depositing cash or other assets as provided above, the obligor-parent may, if approved by the court, provide a performance bond secured by any real property or other assets of the parent and equal in value to one year of payments.

(d) During the pendency of any proceeding pursuant to this section, and upon the application of either party in the manner provided by Section 527 of the Code of Civil Procedure, the court may, without a hearing, issue ex parte orders restraining any person from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, except in the usual course of business or for the necessities of life, and if the order is directed against a party, requiring him or her to notify the other party of any proposed extraordinary expenditures and to account to the court for all such extraordinary expenditures. The matter shall be made returnable not later than 20 days, or if good cause appears to the court, 25 days from the date of the order at which time the ex parte order shall expire. Any order issued pursuant to this section shall state on its face the date of expiration of the order, which shall expire in one year or upon deposit of assets or money pursuant to paragraph (1) of subdivision (a), whichever first occurs. The court, at the hearing, shall determine for which property the obligor-parent shall be required to report extraordinary expenditures and shall specify what is deemed an extraordinary expenditure for purposes of this subdivision.

(e) Any district attorney, county officer, or trustee designated by the court pursuant to subdivision (a) who is responsible for any money or property and for any disbursements under this section shall not be held liable for any action undertaken in good faith and in conformance with this section.

(f) The district attorney, county officer, or trustee designated by the court shall return all assets subject to court order under paragraph (1) of subdivision (a) to the obligor-parent or parents when both of the following occur:

(1) One year has elapsed since the court issued the order described under paragraph (1) of subdivision (a).

(2) The obligor-parent or parents have made all support payments on time during that one-year period.

When the above criteria have been satisfied and when the deposited asset was real property, the district attorney, county officer, or trustee designated by the court shall prepare a release in accordance with Section 697.370 of the Code of Civil Procedure and shall request the clerk of the court where the order to deposit assets was rendered to certify the release and record it in the office of the county recorder.

(g) The district attorney, county officer, or trustee shall, if requested by an obligor-parent, prepare a statement setting forth disbursements and receipts made under this section.

(h) If the district attorney, county officer, trustee, or person designated under subdivision (a) incurs fees or costs under this section which are not compensated by the deduction under paragraph (3) of subdivision (a), including, but not limited to, fees or costs incurred in any sale of assets pursuant to subdivision (a) and in the preparation of a statement pursuant to subdivision (g), the court shall, hear not less than 20 days after service upon the obligor-parent of the notice of motion or order to show cause by the district attorney, county officer, trustee, or person designated under subdivision (a) incurring the fees or costs, and order the obligor-parent or parents to pay reasonable fees and costs. Fees and costs ordered to be paid by the court under this subdivision shall be in addition to any deposit made under subdivision (a), but shall not exceed 5 percent of one year's child support obligation or the total amount ordered deposited under paragraph (1) of subdivision (a), whichever is less.

(i) The purpose of this section is to provide an extraordinary remedy for cases of bad faith failure to pay child support obligations.

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 1390

An act to amend Sections 481.5 and 660 of the Insurance Code, relating to insurance.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987]

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

SECTION 1. Section 481.5 of the Insurance Code is amended to read:

481.5. (a) Whenever an insurer endorses, rejects, declines, cancels, or surrenders a policy of insurance as defined in subdivision (a) of Section 660 or Section 675, or a policy of insurance as defined in subdivision (a) of Section 660 or Section 675 is canceled pursuant to Section 673, the unearned premium shall be tendered to the insured or to the person entitled thereto or to the insurance agent of record as the insurer's agent for transmittal within 25 days after the cessation or amendment of coverage due to endorsement, cancellation, rejection, surrender, or rescission. If this unearned premium is tendered to the insurer's agent, the agent shall tender this premium to the insured or to the person entitled to the premium within 15 days after the agent receives the premium. Any unearned premium not tendered within the time specified above shall bear interest at the rate of 10 percent per annum from and after the date on which the unearned premium is to be tendered. An agent or broker shall only be liable for the payment of interest after 15 days from the date the agent or broker has received the funds for the amount of the unearned premium from the insurer, or from the date the agent or broker has received notification from the insurer that a credit or payment for the amount of the unearned premium has been applied to an agent's or broker's account. That interest imposition shall not apply to any insurer in conservatorship or liquidation and shall constitute the sole penalty paid to the insured for a failure to refund an unearned premium. For the purposes of this section, the tender of any unearned premium to the insured shall be deemed complete upon the deposit of the unearned premium in the United States mail, prepaid, addressed to the named insured at the last known address.

(b) Whenever a policy is canceled pursuant to Section 673, other than a policy as defined in subdivision (a) of Section 660 or Section 675, the unearned premium shall be tendered to the person entitled thereto or to the insurance agent of record as the insurer's agent for transmittal within 120 days after the cessation of coverage due to cancellation. Any unearned premium not tendered within the time specified above shall bear interest at the rate of 10 percent per annum from and after that 120 days. That interest imposition shall not apply to any insurer in conservatorship or liquidation and shall

constitute the sole penalty paid to the insured for a failure to refund an unearned premium.

(c) For purposes of subdivisions (a) and (b), where the unearned premium is not assigned as security to a premium finance agency pursuant to a premium finance agreement and where the amount of unearned premium is less than twenty-five dollars ($25), tender of unearned premium shall include applying the amount of unearned premium either to the renewal premium at the next renewal date or to other premiums due, provided written notice of either application is given to the insured within 30 days after the endorsement, rejection, declination, cancellation, or surrender of a policy of insurance. At the time of endorsement or surrender of a policy of insurance or, within 15 days after the mailing of the written notice required by this subdivision, the insured may request in writing that the unearned premium be tendered as provided in subdivisions (a) and (b).

SEC. 2. Section 481.5 of the Insurance Code is amended to read:

481.5. (a) Whenever an insurer endorses, rejects, declines, cancels, or surrenders a policy of insurance as defined in subdivision (a) of Section 660 or Section 675, or a policy of insurance as defined in subdivision (a) of Section 660 or Section 675 is canceled pursuant to Section 673, the unearned premium shall be tendered to the insured or to the person entitled thereto or to the insurance agent of record as the insurer's agent for transmittal within 25 days after the cessation or amendment of coverage due to endorsement, cancellation, rejection, surrender, or rescission. If this unearned premium is tendered to the insurer's agent, the agent shall tender this premium to the insured or to the person entitled to the premium within 15 days after the agent receives the premium. Any unearned premium not tendered within the time specified above shall bear interest at the rate of 10 percent per annum from and after the date on which the unearned premium is to be tendered. An agent or broker shall only be liable for the payment of interest after 15 days from the date the agent or broker has received the funds for the amount of the unearned premium from the insurer, or from the date the agent or broker has received notification from the insurer that a credit or payment for the amount of the unearned premium has been applied to an agent's or broker's account. That interest imposition shall not apply to any insurer in conservatorship or liquidation and shall constitute the sole penalty paid to the insured for a failure to refund an unearned premium. For the purposes of this section, the tender of any unearned premium to the insured shall be deemed complete upon the deposit of the unearned premium in the United States mail, prepaid, addressed to the named insured at the last known address.

(b) Whenever a policy is canceled pursuant to Section 673, other than a policy as defined in subdivision (a) of Section 660 or Section 675, the unearned premium shall be tendered to the person entitled thereto or to the insurance agent of record as the insurer's agent for

transmittal within 120 days after the cessation of coverage due to cancellation. Any unearned premium not tendered within the time specified above shall bear interest at the rate of 10 percent per annum from and after that 120 days. That interest imposition shall not apply to any insurer in conservatorship or liquidation and shall constitute the sole penalty paid to the insured for a failure to refund an unearned premium.

(c) For purposes of subdivisions (a) and (b), where the unearned premium is not assigned as security to a premium finance agency pursuant to a premium finance agreement and where the amount of unearned premium is less than twenty-five dollars ($25), tender of unearned premium shall include applying the amount of unearned premium either to the renewal premium at the next renewal date or to other premiums due, provided written notice of either application is given to the insured within 30 days after the endorsement, rejection, declination, cancellation, or surrender of a policy of insurance. At the time of endorsement or surrender of a policy of insurance or, within 15 days after the mailing of the written notice required by this subdivision, the insured may request in writing that the unearned premium be tendered as provided in subdivisions (a) and (b). Whenever the amount of unearned premium is less than five dollars ($5), tender shall be effective and the written notice required by this subdivision shall not be required provided the unearned premium is applied either to the renewal premium at the next renewal date or to other premiums due.

SEC. 3. Section 660 of the Insurance Code is amended to read:

660. As used in this chapter:

(a) "Policy" means an automobile liability, automobile physical damage, or automobile collision policy, or any combination thereof, delivered or issued for delivery in this state, insuring a single individual or individuals residing in the same household, as named insured, and under which the insured vehicles therein designated are of the following types only:

(1) A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, nor rented to others; or

(2) Any other four-wheel motor vehicle with a load capacity of 1,500 pounds or less; provided, however, that this chapter shall not apply (i) to any policy issued under an automobile assigned risk plan, or (ii) to any policy insuring more than four automobiles, or (iii) to any policy covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards; or

(3) A motorcycle.

(b) "Automobile liability coverage" includes only coverage of bodily injury and property damage liability, medical payments, and uninsured motorists coverage.

(c) "Automobile physical damage coverage" includes all coverage of loss or damage to an automobile insured under the policy except loss or damage resulting from collision or upset.

(d) "Automobile collision coverage" includes all coverage of loss or damage to an automobile insured under the policy resulting from collision or upset.

(e) "Renewal" or "to renew" means to continue coverage with either the insurer which issued the policy or an affiliated insurer, as defined in Section 1215, for an additional policy period upon expiration of the current policy period of a policy, provided that if coverage is continued with an affiliated insurer, it shall be the same or broader coverage as provided by the present insurer, and the insured shall be notified in writing at least 20 days prior to expiration of the current policy period of all of the following: (1) That the insurer has determined that it will not offer renewal of the policy with the present insurer, (2) That it is offering replacement in an affiliated insurer, and (3) That the insured may obtain in writing the reasons for the change in insurers if he or she requests in writing not later than one month following the expiration of the policy period the reason or reasons for the change in insurers. Any policy with a policy period or term of six months or less, whether or not made continuous for successive terms upon the payment of additional premiums, shall for the purpose of this chapter be considered as if written for a policy period or term of six months. Any policy written for a term longer than one year, or any policy with no fixed expiration date, shall for the purpose of this chapter, be considered as if written for successive policy periods or terms of one year.

(f) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy, or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

(g) "Cancellation" means termination of coverage by an insurer (other than termination at the request of the insured) during a policy period.

(h) "Nonrenewal" means a notice by the insurer to the named insured that the insurer is unwilling to renew a policy.

(i) "Expiration" means termination of coverage by reason of the policy having reached the end of the term for which it was issued or the end of the period for which a premium has been paid.

SEC. 4. Section 2 of this bill incorporates amendments to Section 481.5 of the Insurance Code proposed by both this bill and SB 363. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1988, (2) each bill amends Section 481.5 of the Insurance Code, and (3) this bill is enacted after SB 363, in which case Section 1 of this bill shall not become operative.

CHAPTER 1391

An act to amend Sections 199.21, 199.22, and 1603.3 of the Health and Safety Code, relating to health.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987]

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

SECTION 1. Section 199.21 of the Health and Safety Code is amended to read:

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

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

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

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

(e) Each disclosure made in violation of this chapter is a separate

and actionable offense.

(f) The results of a blood test to detect antibodies to the probable causative agent of acquired immune deficiency syndrome, which identifies or provides identifying characteristics of the person to whom the test results apply, shall not be used in any instance for the determination of insurability or suitability for employment.

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

(h) Nothing in this section limits or expands the right of an injured subject to recover damages under any other applicable law. Nothing in this section shall impose civil liability or criminal sanction for disclosure of the results of tests performed on cadavers to public health authorities or tissue banks.

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

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

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

SEC. 2. Section 199.22 of the Health and Safety Code is amended to read:

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

This requirement does not apply to a test performed at an alternative site, as established pursuant to Article 8 (commencing with Section 1630) of Chapter 4 of Division 2. This requirement also does not apply to any blood and blood products specified in paragraph (2) of subdivision (a) of Section 1603.1. This requirement does not apply when testing is performed as part of the medical examination performed pursuant to Section 7152.5.

(b) Nothing in this section shall preclude a medical examiner or other physician from ordering or performing a blood test to detect antibodies to the probable causative agent of AIDS on a cadaver

when an autopsy is performed or body parts are donated pursuant to the Uniform Anatomical Gift Act, provided for pursuant to Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7.

(c) The requirements of subdivision (a) do not apply when blood is tested as part of a scientific investigation conducted either by medical researchers operating under institutional review board approval or by the state department in accordance with a protocol for unlinked testing. For purposes of this section, unlinked testing means that blood samples are obtained anonymously or that the individual's name and other identifying information is removed in a manner that precludes the test results from ever being linked to a particular individual in the study.

SEC. 3. Section 1603.3 of the Health and Safety Code is amended to read:

1603.3. (a) Prior to a donation of blood or blood components each donor shall be notified in writing of, and shall have signed a written statement confirming the notification of, all of the following:

(1) That the blood or blood components shall be tested for evidence of antibodies to the probable causative agent of acquired immune deficiency syndrome.

(2) That donors found to have serologic evidence of the antibodies shall be placed on a confidential statewide Blood Donor Deferral Register without a listing of the reason for being included on the register.

(3) That the donor shall be notified of the test results in accordance with the requirements described in subdivision (c).

(4) That the donor blood or blood component which is found to have the antibodies shall not be used for transfusion.

(5) That blood or blood components shall not be donated for transfusion purposes by a person if the person has reason to believe that he or she has been exposed to acquired immune deficiency syndrome.

(6) That the donor is required to complete a health screening questionnaire to assist in the determination as to whether he or she has been exposed to acquired immune deficiency syndrome.

(b) A blood bank or plasma center shall incorporate voluntary means of self-deferral for donors. The means of self-deferral may include, but is not limited to, a form with checkoff boxes specifying that the blood donated is for research or test purposes only and a telephone callback system for donors to use in order to inform the blood bank that blood donated should not be used for transfusion.

(c) Blood or blood products from any donor initially found to have serologic evidence of antibodies to the probable causative agent of AIDS shall be retested for confirmation. Only if a further test confirms the conclusion of the earlier test shall the donor be notified of a reactive result by the blood bank or plasma center, as provided in paragraph (1) or (2) of this subdivision.

(1) The state department shall permit a blood bank to inform blood donors of the test result if all of the following apply:

(A) The alternative test sites required pursuant to Article 8 (commencing with Section 1630) are established and operational in the county where the blood bank is located.

(B) The state department has determined that the alternative test sites are functioning in an adequate manner in the county where the blood bank is located and has established a date after which these test sites were functioning in this manner.

After the date determined in subparagraph (B) is established, the blood bank shall wait three months. When the three-month period elapses, blood banks may inform a donor of blood or blood components of the test results no sooner than 60 days from the date of donation.

(2) In the case of a plasma center on or after the operative date of this section, a donor donating for the first or second time in any 60-day period shall not be notified of the test result, but upon a third or subsequent donation within that period, the plasma center may notify the donor of the test result.

The state department shall develop permissive guidelines for blood banks and plasma centers on the method or methods to be used to notify a donor of a test result. Each blood bank or plasma center shall, upon positive confirmation using the best available and reasonable techniques, provide the information to the state department for inclusion in the Donor Deferral Register. Blood banks and plasma centers shall provide the information on donations testing reactive for the antibodies to the probable causative agent of AIDS and carrier donors of viral hepatitis to the department on a single list in the same manner without specification of the reason the donor appears on the list.

(d) The Blood Donor Deferral Register, as described in subdivision (e) of Section 1603.1, shall include names of individuals who are deferred from blood donations without identifying the reasons for deferral.

(e) Each blood bank or plasma center operating in California shall prominently display at each of its collection sites a notice which provides the addresses and phone numbers of sites, within the proximate area of the blood bank or plasma center, where tests provided pursuant to Article 8 (commencing with Section 1630) may be administered without charge.

(f) Notwithstanding any other provision of law, no civil liability or criminal sanction shall be imposed for disclosure of test results to a public health officer when the disclosure is necessary to locate and notify a blood donor of a reactive result if reasonable efforts by the blood bank or plasma center to locate the donor have failed. Upon completion of the public health officer's efforts to locate and notify a blood donor of a reactive result, all records obtained from the blood bank pursuant to this subdivision, or maintained pursuant to this subdivision, including, but not limited to, any individual identifying information or test results, shall be expunged by the public health officer.

CHAPTER 1392

An act to amend Section 43012 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 43012 of the Health and Safety Code is amended to read:

43012. (a) For the purpose of enforcing or administering any federal, state, or local law, order, regulation, or rule relating to vehicular sources of emissions, the executive officer of the state board or an authorized representative of the executive officer, upon presentation of credentials or, if necessary under the circumstances, after obtaining an inspection warrant pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, has the right of entry to any premises owned, operated, used, leased, or rented by any new or used car dealer, as defined in Sections 285, 286, and 426 of the Vehicle Code, for the purpose of inspecting any vehicle for which emissions standards have been enacted or adopted or for which emissions equipment is required and which is situated on the premises for the purpose of emission-related maintenance, repair, or service, or for the purpose of sale, lease, or rental, whether or not the vehicle is owned by the dealer. The inspection may extend to all emission-related parts and operations of the vehicle, and may require the on-premises operation of an engine or vehicle, the on-premises securing of samples of emissions from the vehicle, and the inspection of any records which relate to vehicular emissions required by the Environmental Protection Agency or by any state or local law, order, regulation, or rule to be maintained by the dealer in connection with the dealer's business.

(b) The right of entry for inspection under this section is limited to the hours during which the dealer is open to the public, except when the entry is made pursuant to warrant or whenever the executive officer or an authorized representative has reasonable cause to believe that a violation of any federal, state, or local law, order, regulation, or rule has been committed in his or her presence. No vehicle shall be inspected pursuant to this section more than one time without an inspection warrant or without reasonable cause unless the vehicle undergoes a change of ownership or the inspection reveals that the vehicle has failed to comply with required emissions standards or equipment, in which case one additional inspection may be made to verify the violation or to verify that the violation has been corrected.

(c) With respect to vehicles not owned by the dealer, the state

board may not prosecute, without the owner's knowledge or consent, any violation by the owner of any law pertaining to vehicular emissions unless prior notice of the inspection has been given to the owner.

(d) If the executive officer or authorized representative, upon inspection, finds that a used motor vehicle fails to comply with applicable emissions standards or equipment, the state board shall issue a notice to correct. Until all violations in the notice have been corrected and the dealer has sent proof of correction by certified mail to the state board, the motor vehicle shall prominently display the following disclosure affixed to the windshield in at least 18-point type:

NOT FOR SALE

THIS VEHICLE IS PRESENTLY NOT IN COMPLIANCE WITH THE CALIFORNIA VEHICLE POLLUTION CONTROL LAWS AND MAY NOT BE SOLD UNTIL A VALID CERTIFICATE OF COMPLIANCE HAS BEEN ISSUED.

Any dealer who sells a vehicle prohibited to be sold under this subdivision is subject to a civil penalty of not to exceed one thousand dollars ($1,000). For purposes of this subdivision, "proof of correction" shall consist of a copy of a certificate of compliance or noncompliance issued following the issuance of a notice to correct by a licensed test station or licensed repair station not affiliated with or owned by the dealer or any other proof of repair satisfactory to the inspecting officer. The dealer shall send the copy of the certificate of compliance or noncompliance by certified mail to the state board within three days of obtaining the certificate.

(e) Civil penalties may be assessed or recovered for one or more violations by a dealer involving the tampering with or disabling of a vehicle's air injection, exhaust gas recirculation, crankcase ventilation, fuel injection, or carburation systems, ignition timing or evaporative controls, fuel filler neck restrictor, oxygen sensor or electronic controls, or missing catalytic converter.

(f) No civil penalty or criminal penalty may be assessed for a violation by a dealer identified in a notice to correct as a result of an inspection under this section if the violation is related to lack of maintenance or customer tampering or vandalism, including, but not limited to, a missing gasoline filler cap and a disconnected or missing heated air intake tube or vacuum hose. However, if notices to correct are issued under this subdivision to more than 20 percent of the vehicles offered for sale on a dealer's premises during each of three consecutive inspections conducted 30 or more days apart during any one-year period, civil penalties may be assessed and recovered for each vehicle issued a notice to correct.

(g) If the executive officer or authorized representative, upon inspection, finds that a certificate of compliance or noncompliance was issued to a motor vehicle that fails to comply with applicable

emissions standards or equipment, the state board shall immediately refer these findings to the department for investigation under Chapter 5 (commencing with Section 44000). The state board may refer any other suspected violation to the department for appropriate action.

(h) Notwithstanding Section 17150 of the Vehicle Code, the state shall be liable for any injury or damage caused by the negligent or wrongful act or omission of the operator of any vehicle which is operated pursuant to this section.

(i) This section provides the exclusive authority for inspections of motor vehicles for the purposes specified in this section.

(j) As used in this section, the terms "tampering" and "disabling" mean an unauthorized modification, alteration, removal, or disconnection.

(k) No civil penalty may be imposed, or administrative action taken to revoke a dealer's license, for any violation of this section involving a used motor vehicle occurring between January 1, 1988, and March 31, 1988.

CHAPTER 1393

An act to amend Section 1628 of the Health and Safety Code, relating to blood.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987]

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

SECTION 1. Section 1628 of the Health and Safety Code is amended to read:

1628. (a) No person shall prohibit any individual from doing either of the following:

(1) Making blood donations to be used directly for blood transfusions for an individual designated by the donor when prescribed by a physician and surgeon.

(2) Directing that blood donated by the individual pursuant to paragraph (1) be used in any blood transfusion to the individual designated pursuant to paragraph (1) if that blood type is compatible with that individual's blood type and use of that blood, or the drawing of the blood, is not contraindicated, as determined by a physician and surgeon.

(b) Subdivision (a) does not exempt any person from complying with all requirements of Chapter 4 (commencing with Section 1600) of Division 2.

(c) Donations pursuant to this section shall be made through a licensed blood bank during the bank's normal working hours.

(d) Blood donated under this section may be used for individuals

other than the individual for whom the blood was designated pursuant to paragraph (1) of subdivision (a) either; (1) when it is determined by that individual's prescribing physician and surgeon, in conjunction with the blood bank, that there is a more immediate need, or, (2) with the donor's consent.

When blood is released for use by someone other than the designee under paragraph (1) of subdivision (a), only the special costs provided for in subdivision (e) shall be charged to the original designee under paragraph (1) of subdivision (a).

(e) When a blood bank collects a donor unit of blood or blood product whose use is designated by the donor, any additional costs, limited to the actual technical and administrative costs of drawing, storing, and designating the blood, shall be charged to the designee. Charges assessed under this subdivision shall not exceed those charges levied by the blood bank for the costs of drawing, storing, and designating autologous blood or blood products.

(f) This section shall remain in effect only 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. 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 1394

An act to amend Sections 311.4 and 647a of the Penal Code, relating to crimes.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 647a of the Penal Code is amended to read:

647a. Every person who annoys or molests any child under the age of 18 is a vagrant and is punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail for not exceeding one year or by both such fine and imprisonment. Every person who violates this section after having entered, without consent, an inhabited dwelling house, or trailer coach as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year. Every person who violates this section is punishable upon the second and each subsequent conviction by imprisonment in the state prison. Every person who

violates this section after a previous felony conviction under this section, conviction under Section 288, or felony conviction under Section 311.4 involving a minor under the age of 14 years is punishable by imprisonment in state prison for two, four, or six years.

SEC. 2. Section 647a of the Penal Code is amended and renumbered to read:

647.6. Every person who annoys or molests any child under the age of 18 is punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail for not exceeding one year or by both the fine and imprisonment. Every person who violates this section after having entered, without consent, an inhabited dwelling house, or trailer coach as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year. Every person who violates this section is punishable upon the second and each subsequent conviction by imprisonment in the state prison. Every person who violates this section after a previous felony conviction under this section, conviction under Section 288, or felony conviction under Section 311.4 involving a minor under the age of 14 years is punishable by imprisonment in the state prison for two, four, or six years.

SEC. 3. Section 647a of the Penal Code is amended to read:

647a. Every person who annoys or molests any child under the age of 18 is a vagrant and is punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail for not exceeding one year or by both such fine and imprisonment. Every person who violates this section after having entered, without consent, an inhabited dwelling house, or trailer coach as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year. Every person who violates this section is punishable upon the second and each subsequent conviction by imprisonment in the state prison. Every person who violates this section after a previous felony conviction under this section, conviction under Section 288, or felony conviction under Section 311.4 involving a minor under the age of 14 years is punishable by imprisonment in the state prison for two, four, or six years. In any case in which a person is convicted of violating this section and probation is granted, the court shall require counseling as a condition of probation, unless the court makes a written statement in the court record, that counseling would be inappropriate or ineffective.

SEC. 4. Section 647a of the Penal Code is amended and renumbered to read:

647.6. Every person who annoys or molests any child under the age of 18 is punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail for not exceeding one year or by both the fine and imprisonment. Every person who violates this section after having entered, without consent, an

inhabited dwelling house, or trailer coach as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year. Every person who violates this section is punishable upon the second and each subsequent conviction by imprisonment in the state prison. Every person who violates this section after a previous felony conviction under this section, conviction under Section 288, or felony conviction under Section 311.4 involving a minor under the age of 14 years is punishable by imprisonment in the state prison for two, four, or six years. In any case in which a person is convicted of violating this section and probation is granted, the court shall require counseling as a condition of probation, unless the court makes a written statement in the court record, that counseling would be inappropriate or ineffective.

SEC. 5. Section 311.4 of the Penal Code is amended to read:

311.4. (a) Every person who, with knowledge that a person is a minor, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor, hires, employs, or uses the minor to do or assist in doing any of the acts described in Section 311.2, is, for a first offense, guilty of a misdemeanor. If the person has previously been convicted of any violation of this section, the court may, in addition to the punishment authorized in Section 311.9, impose a fine not exceeding fifty thousand dollars ($50,000).

(b) Every person who, with knowledge that a person is a minor under the age of 17 years, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor under the age of 17 years, knowingly promotes, employs, uses, persuades, induces, or coerces a minor under the age of 17 years, or any parent or guardian of a minor under the age of 17 years under his or her control who knowingly permits the minor, to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving sexual conduct by a minor under the age of 17 years alone or with other persons or animals, for commercial purposes, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

(c) Every person who, with knowledge that a person is a minor under the age of 17 years, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor under the age of 17 years, knowingly promotes, employs, uses, persuades, induces, or coerces a minor under the age of 17 years, or any parent or guardian of a minor under the age of 17 years under his or her control who knowingly permits the minor, to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving sexual conduct by a minor under the age of 17 years alone or with other persons or animals, is guilty of a felony. It shall not be necessary to prove commercial purposes

in order to establish a violation of this subdivision.

(d) As used in subdivisions (b) and (c), "sexual conduct" means any of the following, whether actual or simulated: sexual intercourse, oral copulation, anal intercourse, anal oral copulation, masturbation, bestiality, sexual sadism, sexual masochism, penetration of the vagina or rectum by any object in a lewd or lascivious manner, exhibition of the genitals, pubic, or rectal area for the purpose of sexual stimulation of the viewer, any lewd or lascivious sexual act as defined in Section 288, or excretory functions performed in a lewd or lascivious manner, whether or not any of the above conduct is performed alone or between members of the same or opposite sex or between humans and animals. An act is simulated when it gives the appearance of being sexual conduct.

(e) This section shall not apply where the minor is legally emancipated, including lawful conduct between spouses when one or both are under the age of 17.

(f) In every prosecution under this section involving a minor under the age of 14 years at the time of the offense, the age of the victim shall be pled and proven for the purpose of the enhanced penalty provided in Section 647a. Failure to plead and prove that the victim was under the age of 14 years at the time of the offense shall not be a bar to prosecution under this section if it is proven that the victim was under the age of 18 years at the time of the offense.

SEC. 6. (a) Section 2 of this bill incorporates amendments to Section 647a of the Penal Code proposed by both this bill and AB 1359. It shall only become operative if (1) both bills are enacted and become effective January 1, 1988, (2) each bill amends Section 647a of the Penal Code, and (3) AB 2441 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1359, 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 647a of the Penal Code proposed by both this bill and AB 2441. It shall only become operative if (1) both bills are enacted and become effective January 1, 1988, (2) each bill amends Section 647a of the Penal Code, (3) AB 1359 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2441 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 647a of the Penal Code proposed by this bill, AB 1359, and AB 2441. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1988, (2) all three bills amend Section 647a of the Penal Code, (3) this bill is enacted after AB 1359 and AB 2441, in which case Sections 1, 2, and 3 of this bill shall not become operative.

CHAPTER 1395

An act to amend Section 22229.2 of the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987.]

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, 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 employing agency which employs a member appointed pursuant to Section 22229.1 and which employs a person to replace the 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.

CHAPTER 1396

An act to amend Section 15610 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 15610 of the Welfare and Institutions Code is amended to read:

15610. As used in this chapter:

(a) "Elder" means any person residing in this state, 65 years of age or older.

(b) (1) "Dependent adult" means any person residing in this state, between the ages of 18 and 64, who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age.

(2) "Dependent adult" includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

(c) "Physical abuse" means all of the following:

(1) Assault, as defined in Section 240 of the Penal Code.

(2) Battery, as defined in Section 242 of the Penal Code.

(3) Assault with a deadly weapon or force likely to produce great bodily injury, as defined by Section 245 of the Penal Code.

(4) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.

(5) Sexual assault, which means any of the following:

(A) Sexual battery, as defined in Section 243.4 of the Penal Code.

(B) Rape, as defined in Section 261 of the Penal Code.

(C) Rape in concert, as described in Section 264.1 of the Penal Code.

(D) Incest, as defined in Section 285 of the Penal Code.

(E) Sodomy, as defined in Section 286 of the Penal Code.

(F) Oral copulation, as defined in Section 288a of the Penal Code.

(G) Penetration of a genital or anal opening by a foreign object, as defined in Section 289 of the Penal Code.

(6) Use of a physical or chemical restraint, medication, or isolation without authorization, or for a purpose other than for which it was ordered, including, but not limited to, for staff convenience, for punishment, or for a period beyond that for which it was ordered.

(d) "Neglect" means the negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care which a reasonable person in a like position would exercise. Neglect includes, but is not limited to, all of the following:

(1) Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.

(2) Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.

(3) Failure to protect from health and safety hazards.

(4) Failure to prevent malnutrition.

(e) "Abandonment" means the desertion or willful foresaking of an elder or a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

(f) "Fiduciary abuse" means a situation in which any person who has the care or custody of, or who stands in a position of trust to, an elder or a dependent adult, takes, secretes, or appropriates their money or property, to any use or purpose not in the due and lawful execution of his or her trust.

(g) "Abuse of an elder or a dependent adult" means physical abuse, neglect, intimidation, cruel punishment, fiduciary abuse, abandonment, or other treatment with resulting physical harm or

pain or mental suffering, or the deprivation by a care custodian of goods or services which are necessary to avoid physical harm or mental suffering.

(h) "Care custodian" means an administrator or an employee, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff, of any of the following public or private facilities when the facilities provide care for elders or dependent adults:

(1) Twenty-four-hour health facilities, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

(2) Clinics.

(3) Home health agencies.

(4) Adult day health care centers.

(5) Secondary schools which serve 18- to 22-year-old dependent adults and postsecondary educational institutions which serve dependent adults or elders.

(6) Sheltered workshops.

(7) Camps.

(8) Community care facilities, as defined by Section 1502 of the Health and Safety Code and residential care facilities for the elderly, as defined in Section 1569.2 of the Health and Safety Code.

(9) Respite care facilities.

(10) Foster homes.

(11) Regional centers for persons with developmental disabilities.

(12) State Department of Social Services and State Department of Health Services licensing divisions.

(13) County welfare departments.

(14) Offices of patients' rights advocates.

(15) Office of the long-term care ombudsman.

(16) Offices of public conservators and public guardians.

(17) Any other protective or public assistance agency which provides health services or social services to elders or dependent adults.

(i) "Health practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, licensed clinical social worker, 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, or an unlicensed marriage, family and child counselor intern registered under Section 4980.44 of the Business and Professions Code, state or county public health or social service employee who treats an elder or a dependent

adult for any condition, a coroner, or a religious practitioner who diagnoses, examines or treats elders or dependent adults.

(j) "Adult protective services agency" means a county welfare department, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff.

(k) "Adult protective services" means those preventive and remedial activities performed on behalf of elders and dependent adults who are unable to protect their own interests; harmed or threatened with harm; caused physical or mental injury due to the action or inaction of another person or their own action due to ignorance, illiteracy, incompetence, mental limitation or poor health; lacking in adequate food, shelter, or clothing; exploited of their income and resources; or deprived of entitlement due them.

(*l*) "Goods and services which are necessary to avoid physical harm or mental suffering" include, but are not limited to, all of the following:

(1) The provision of medical care for physical and mental health needs.

(2) Assistance in personal hygiene.

(3) Possessing adequate clothing.

(4) Adequately heated and ventilated shelter.

(5) Protection from health and safety hazards.

(6) Protection from malnutrition, under those circumstances where the results include, but are not limited to, malnutrition and deprivation of necessities or physical punishment.

(7) Transportation and assistance necessary to secure any of the needs set forth in paragraphs (1) to (6) above.

(m) "Investigation" means that activity necessary to determine the validity of a report of elder or dependent adult abuse, neglect, or abandonment.

(n) "Long-term care ombudsman" means the State Long-Term Care Ombudsman, long-term care ombudsmen of the Department of Aging, and persons acting in the capacity of ombudsman coordinators as described in Chapter 9 (commencing with Section 9700) of Division 8.5.

(o) "Developmentally disabled person" means a person with a developmental disability specified by or as described in subdivision (a) of Section 4512.

(p) "Mental suffering" means deliberately subjecting a person to fear, agitation, confusion, severe depression, or other forms of serious emotional distress, through threats, harassment, or other forms of intimidating behavior.

(q) "Patient's rights advocate" means a person who has no direct or indirect clinical or administrative responsibility for the patient, and who shall be responsible for ensuring that laws, regulations, and policies on the rights of the patient are observed.

(r) "Local law enforcement agency" means a city police or county sheriff's department, or a county probation department, except

persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff.

SEC. 2. 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.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1397

An act to add and repeal Sections 14609 and 22754.3 of the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 14609 is added to the Government Code, to read:

14609. All persons employed by the Department of General Services under a temporary authorization as elevator operators on June 30, 1987, may participate in a promotional examination for the Department of General Services for a period of one year. Those elevator operators who have completed six or more months of service under a temporary authorization appointment and are appointed as a result of a promotional examination shall be deemed to have completed the required probationary period.

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 22754.3 is added to the Government Code, to read:

22754.3. Notwithstanding Sections 22754 and 22822, the term "employee" includes all persons who have been employed by the Department of General Services on or before June 30, 1987, under a

temporary authorization as elevator operators. Upon fulfillment of these conditions, those elevator operators shall be eligible for benefits provided under this chapter.

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. This act is an urgency statute necessary for the immediate preservation of the public peace, 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 deserving state elevator operators serving under a temporary authorization may obtain health benefits coverage at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1398

An act relating to hazardous waste, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. (a) On or before January 15, 1988, the State Department of Health Services shall submit to the Legislature recommendations for the establishment of a permanent, statutory, and consistent system for the imposition of fees to fund the Hazardous Waste Control Account. The department shall recommend a fee structure which would encourage the reduction or recycling of hazardous wastes, distribute the financial burden of the fees equitably between large and small quantity generators, ensure that this distribution of fees does not unreasonably discourage small businesses from complying with the hazardous waste laws and regulations, and provide for an efficient and effective implementation by the state.

(b) In developing recommendations pursuant to this section, the State Department of Health Services shall consult with representatives from the industry regulated under Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code, environmental and public interest organizations, the State Board of Equalization, the Office of the Legislative Analyst, and persons who have expertise and experience in the area of hazardous waste regulation.

(c) The sum of fifty thousand dollars ($50,000) is hereby appropriated from the Hazardous Waste Control Account in the

General Fund to the State Department of Health Services to develop recommendations pursuant to this section.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that adequate revenues are collected during the 1988–89 fiscal year to regulate hazardous waste, it is necessary that this act take effect immediately.

CHAPTER 1399

An act relating to water districts and, in this connection, to create the Colusa Basin Drainage District to provide for control of drainage, storm, flood, and other waters, and prescribing its organization, powers, and duties.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

PART 1. INTRODUCTORY PROVISIONS

CHAPTER 1. SHORT TITLE

SECTION 1. This act shall be known and may be cited as the Colusa Basin Drainage District Act.

CHAPTER 2. FINDINGS

SEC. 20. (a) The Colusa Basin Drain lies between the Sacramento River on the east and the Coast Range on the west within Glenn, Colusa, and Yolo Counties. It is bounded on the north by the watershed of Stony Creek and on the south by the watershed of Cache Creek. The basin has no natural outlet at times of high water in the Sacramento River. The two outlets available for floodwaters and drainage are outfall gates at the southerly end of the Colusa Drain near Knights Landing and the Knights Landing Ridge Cut. During times when the Sacramento River is high, the outfall gates near Knights Landing are inoperable and water can escape from the Colusa Basin only through the artificial channel known as the Knights Landing Ridge Cut through which water is discharged into the Yolo Bypass to enter the Sacramento River near Rio Vista. Limited outlet capacity and limited drainage and channel capacity within the basin result in periodic extensive flooding throughout the basin. This problem needs to be studied and

addressed.

(b) Irrigation drainage occurs in the basin through a number of natural and artificial channels, all of which ultimately flow into the Colusa Basin Drain, sometimes called Reclamation District 2047 Drain, which discharges water into the Sacramento River through the Knights Landing outfall gates except during times of high water on the Sacramento River when the only outlet is through the Knights Landing Ridge Cut into the Yolo Bypass. The Colusa Basin Drain has been used for the purpose of receiving irrigation water drainage or return flows. As land within the Colusa Basin has been developed and improved, the capacity of this drain for drainage waters has become overtaxed to the point where irrigation water drainage is not available to lands adjacent to the drain at times when it is required for agricultural purposes, and flooding of adjacent lands may occur even during the normal drainage season. This problem needs to be studied and addressed.

(c) Certain areas within the Colusa Basin appear to be experiencing subsidence which may add to the flooding and drainage problems occurring within the basin. This problem needs to be studied and addressed.

SEC. 21. The problems of flooding and winter drainage, irrigation drainage, and subsidence which are occurring within the Colusa Basin are multicounty in scope, but are unique to the Colusa Basin and are not general or statewide. A special act to address these problems is, therefore, necessary.

SEC. 22. The problems referred to in Sections 20 and 21 are basinwide. There are within the basin a number of governmental entities presently formed which are authorized to address one or more of the problems referred to in Sections 20 and 21 within the scope of their particular jurisdiction. It will be beneficial for the overall basin that a district be formed which incorporates the entire basin and is able to relate to the overall problems of the total basin while still allowing any project which may be undertaken affecting individual areas within the basin to be addressed by other districts or the respective counties with the assistance and cooperation of, and coordination with, the basinwide district.

CHAPTER 3. CREATION AND BOUNDARIES

SEC. 31. A drainage and flood control district is hereby created to be called the Colusa Basin Drainage District.

SEC. 32. The district shall comprise all of the territory within the watershed of the Colusa Basin, which basin comprises hydrologic subarea A07.B1 and that part of subarea A07.A0 located west of the westerly or right bank levee of the Sacramento River as shown on the "Areal Designation for California" map, dated February 10, 1981, contained in Bulletin 230-81 of the Department of Water Resources and as delineated on United States Geological Survey Quadrangles on file with the Department of Water Resources. The boundary of

the district, being the boundary of the Colusa Basin watershed as shown on the map and quadrangles above referred to, is described generally as commencing at the State Highway 113 bridge across the Knights Landing Ridge Cut, thence along the Knights Landing Ridge Cut between the Colusa Basin and the Cache Creek watershed westerly and northerly to the drainage divide between Stony Creek and the Colusa Basin, thence northerly along that divide to a point west of Orland, thence easterly along the drainage divide between lands which drain into the Sacramento River and lands which drain into the Colusa Basin, to the westerly or right bank levee of the Sacramento River, thence southerly along the westerly or right bank levee of the Sacramento River to the Knights Landing outfall gates, thence along the southerly bank of the Colusa Basin Drain to the northerly end of the Knights Landing Ridge Cut, thence along the easterly bank of the Knights Landing Ridge Cut to the State Highway 113 bridge. The assessors of Glenn, Colusa, and Yolo Counties shall conform the boundary of the district to the boundaries nearest the exterior watershed boundary, as described above, of the assessment parcels lying totally within the watershed and situated nearest to that exterior boundary, except as to the easterly boundary which shall be the westerly or right bank levee of the Sacramento River. Each county assessor shall, within a reasonable time after January 1, 1988, hold a hearing within the respective county for the purpose of conforming the district boundary to the assessment parcel boundaries as provided herein. Notice shall be published once a week for two successive weeks in a newspaper of general circulation within the county stating that a hearing will be held for the purpose of conforming the district boundary to the boundaries of the nearest assessment parcels. Notice shall also be given by mail at least two weeks prior to the hearing to the owners of those assessment parcels within the respective county directly affected by this conformance, mailed to the address shown on the records of the assessor. At the hearing, the assessor shall present a map showing the proposed boundary as conformed to the boundaries of the nearest assessment parcels, and shall hear any objections which may be made to that boundary. Following the hearing the assessor shall describe the precise boundary of the district as conformed to the nearest assessment parcels, and shall record in the records of that particular county the description of the boundary of the district within that county, including the westerly or right bank levee of the Sacramento River as the most easterly boundary. The costs of notice, hearing, and preparation of the description shall be included as formation costs of the district.

CHAPTER 4. DEFINITIONS

SEC. 40. "Board" or "board of directors" means the board of directors of the district.

SEC. 41. "Eligible voter" means a person who owns land, or the

legal representative of the owner of land, within the area in which an election is to be held.

SEC. 42. "Evidence of indebtedness" means any warrant, note, or other evidence of indebtedness of the district or any zone.

SEC. 43. "Legal representative" means any of the following:

(a) An official of a corporation, partnership, or public or nonpublic entity or association which owns land within the district.

(b) A partner or authorized representative of a partnership which owns land within the district.

(c) A guardian, conservator, executor, or administrator of the estate of the owner of land within the district who is appointed under the laws of this state, is entitled to possession of the estate's land, or is authorized to exercise the particular right, privilege, or immunity which he or she seeks to exercise.

SEC. 44. "Project" means a work and all of the activities related to or necessary for the acquisition, construction, operation, and maintenance of a work, including, but not limited to, planning, design, financing, and administration.

SEC. 45. "Work" or "works" includes, but is not limited to, reservoirs, dams, and all conduits and facilities for the control, conservation, diversion, and transmission of water for beneficial uses; drains, levees, and all ditches and facilities for the control and disposal of drainage, storm, and flood waters within the district; associated power facilities for the incidental generation and distribution of hydroelectric power; and all necessary property interests and rights-of-way.

SEC. 46. "Zone" means a zone of benefit formed under Part 6 (commencing with Section 600).

CHAPTER 5. GENERAL PROVISIONS

SEC. 50. The Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code) does not apply to the formation of the district or the formation or changes in the boundaries of any zone. For all other purposes, the district is a "district" as that term is defined in the Cortese-Knox Local Government Reorganization Act of 1985.

SEC. 51. Any judicial action or proceeding to attack, review, set aside, void, annul, or challenge the validity or legality of the formation of a zone, any contract entered into by the district or a zone, any bond or evidence of indebtedness of the district or a zone, or any assessment, rate, or charge of the district or a zone shall be commenced within 60 days of the effective date thereof.

The action or proceeding shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

The district may bring an action pursuant to that Chapter 9 to determine the validity of any of the matters referred to in this section.

PART 2. INTERNAL ORGANIZATION

CHAPTER 1. BOARD OF DIRECTORS

SEC. 200. The district shall be governed by a board of directors consisting of nine directors. The nine directors shall be selected as follows:

(a) Three directors appointed pursuant to Section 201.

(b) Three directors selected pursuant to Section 202.

(c) Three directors elected pursuant to Section 203.

SEC. 201. (a) One director each shall be appointed by the Board of Supervisors of Colusa County, the Board of Supervisors of Glenn County, and the Board of Supervisors of Yolo County.

(b) The three directors initially appointed shall determine, by lot, the expiration dates for their initial terms. The term of one director shall expire concurrently with the terms of officials subject to election at the next general election to be held under the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 14 of the Elections Code). The terms of the other two directors shall expire concurrently with the terms of officials to be elected at the subsequent general election to be held under the Uniform District Election Law.

SEC. 202. (a) Three directors shall be selected by the governing boards of the water, irrigation, reclamation, and drainage districts located, in whole or in part, within the district. These directors shall be selected so as to provide representation to varied geographical areas within the district.

(b) Except as provided in subdivision (c), not less than 90 days prior to the time for a general election to be held under the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 14 of the Elections Code), representatives of all those districts shall, after notice by the district, convene for the purpose of selecting three directors. Each district shall have one vote to be cast by a proxy designated by resolution of the governing board of that district.

(c) The initial three directors shall be selected not later than April 1, 1988. The meeting to make these selections shall be convened by the Director of Water Resources or his or her representative.

(d) The three directors initially chosen shall determine, by lot, the expiration dates for their initial terms. The term of two directors shall expire concurrently with the terms of officials subject to election at the next general election to be held under the Uniform District Election Law. The term of the other one director shall expire concurrently with the terms of officials to be elected at the subsequent general election to be held under the Uniform District Election Law.

SEC. 203. (a) Three directors shall be elected by the eligible

voters in the district. One director shall be elected by the eligible voters within each of the following divisions:

(1) Division I, comprising all of that portion of the district within Glenn County.

(2) Division II, comprising all of that portion of the district within Colusa County except for the precincts of Arbuckle, Grimes, and College City as they exist on January 1, 1988.

(3) Division III, comprising all that portion of the district within Yolo County and that portion of the district within Colusa County not included within Division II.

(b) The three directors initially elected shall take office not later than July 1, 1988, and shall determine, by lot, the expiration dates for their initial terms. The term of one director shall expire concurrently with the terms of officials subject to election at the next general election to be held under the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 14 of the Elections Code). The terms of the other two directors shall expire concurrently with the terms of officials to be elected at the subsequent general election to be held under the Uniform District Election Law.

SEC. 204. The six directors appointed or selected pursuant to Sections 201 and 202 shall be appointed or selected not later than April 1, 1988.

The initial election of three directors pursuant to Section 203 shall be consolidated with the June 7, 1988, direct primary election and shall otherwise be conducted pursuant to the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 14 of the Elections Code).

SEC. 205. Except for the initial directors, the directors shall serve for terms of four years. The terms shall be concurrent with the terms of district officials elected under the Uniform District Election Law. A candidate for appointment or election to the board shall be an owner of land within the district.

SEC. 206. Prior to taking office, each director shall take the official oath and execute such bond as may be set by the board.

SEC. 207. All vacancies occurring in the office of a director shall be filled pursuant to Section 1780 of the Government Code, except that vacancies in the office of a director appointed pursuant to Section 201 shall be filled by the appointing power.

The appointment to fill a vacancy shall be for the unexpired portion of the term.

SEC. 208. Each director shall be entitled to receive compensation in an amount set by the board and recorded in its official minutes, not to exceed one hundred dollars ($100) per day for each day's attendance at meetings of the board or for each day's service rendered as a director by request of the board, not to exceed six days in any calendar month, together with actual, necessary, and reasonable expenses incurred in the performance of duties required or authorized by the board.

SEC. 209. At its first meeting and at its regular meeting in January and each year thereafter, the board shall elect a chairperson and vice chairperson from its members.

SEC. 210. The board shall hold one or more regular meetings each month at the time and place set by resolution. No change in the date of the regular meeting shall be effective until notice thereof has been published in a newspaper of general circulation within the district at least seven days prior to the effective date of the change.

Special meetings of the board may be called and conducted in the manner provided for in the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

SEC. 211. A majority of the board constitutes a quorum for the transaction of business.

SEC. 212. The vote of a majority of the directors present at any meeting attended by a quorum is necessary to take action, unless otherwise specified in this act or by law.

CHAPTER 2. OTHER OFFICERS AND EMPLOYEES

SEC. 220. Any county employee may serve as an ex officio employee of the district and may perform without additional compensation the same duties for the district as for the county with the consent of the board of supervisors of the county and the board.

SEC. 221. The board may employ and appoint any agents, officers, employees, and consultants as may be required, prescribe their duties, fix their salaries, and prescribe the terms and conditions of their employment.

PART 3. ELECTIONS

CHAPTER 1. DISTRICT ELECTIONS

SEC. 300. All district elections shall be conducted in conformance with the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 14 of the Elections Code), to the extent applicable, unless otherwise provided in this act.

SEC. 301. Only eligible voters shall vote at district elections. Each eligible voter shall have one vote for each one-thousandth of 1 percent attributable to the land of the eligible voter out of the total benefit received by all lands within the district as determined in accordance with Sections 600 and 701. Fractions shall be rounded to the nearest one-thousandth with each voter entitled to at least one vote.

Until the benefits to be received from the district are determined in accordance with Sections 600 and 701, and Section 702 where applicable, all elections shall be on a basis of one vote per acre, or fraction thereof, as shown on the county assessment rolls owned by the eligible voter.

For land in multiple ownership, the owners shall designate in writing to the district, prior to the deadline set by the district, one owner of the land for voting purposes. Where applicable, the owner shall designate in writing, prior to the deadline set by the district, the legal representative who shall be entitled to vote on behalf of the owner.

SEC. 302. An eligible voter may vote at any district election either in person or by a person duly appointed as his or her proxy. The proxy may be executed by the legal representative or by the single owner designated pursuant to Section 301.

SEC. 303. No appointment of a proxy shall be valid, accepted, or vote allowed thereon at any district election unless it is in writing, it is executed by the eligible voter who is entitled to cast the votes for which the proxy is given, it is notarized, and it specifies the election at which it is to be used. An appointment of a proxy shall be used only at the specified election.

An appointment of a proxy is revocable at the pleasure of the eligible voter who is entitled to cast the votes for which the proxy is given at any time before the person appointed as proxy has cast a ballot representing the votes for which the appointment was given.

SEC. 304. Except as otherwise provided in this act, the appropriate county clerk shall conduct all elections for the portion of the district within that county. The board may, by resolution, determine that the district shall conduct an election and designate an officer who shall perform the duties of the county clerk in conducting the election.

SEC. 305. The board may, by resolution, direct that any district election be conducted by all-mailed ballot under the procedure for mailed ballot elections set forth in the Elections Code. For a mailed ballot, eligible voters shall cast votes directly and not by proxy.

PART 4. POWERS AND PURPOSES

CHAPTER 1. POWERS GENERALLY

SEC. 400. The district may generally perform all acts necessary or proper to carry out fully this act.

SEC. 401. The district may commence and maintain any action or proceeding to carry out its purposes or protect its interests and may defend any action or proceeding brought against it.

SEC. 402. The district may execute, by its chairperson and secretary, all contracts and other documents necessary to carry out the powers and purposes of the district.

SEC. 403. The district has perpetual succession.

SEC. 404. The district may adopt a seal and alter it at its pleasure.

SEC. 405. Except as otherwise provided, the board shall exercise the powers of the district.

SEC. 406. The district may acquire absolutely, or on condition, by grant, purchase, gift, devise, lease, with or without the privilege of

purchasing, or otherwise, real and personal property of every kind, of any interest in real or personal property, within or outside of the district, necessary to the full exercise of its powers, and to hold, use, enjoy, and to lease or dispose of the property subject to the limitations set forth in this act.

SEC. 408. The district may control drainage, flood, and storm water within the district; conserve the water by storage and surface reservoirs; save or conserve in any manner all or any of the water; provide subsurface drainage to alleviate conditions of high groundwater levels within the district; and protect the watercourses, watersheds, public highways, and life and property within the district from damage from any drainage, flood, or storm water.

SEC. 409. Incidental to its other powers, the district may construct, operate, and maintain works to develop hydroelectric energy and transmission lines for the conveyance thereof. The power generated may be used by the district for its purposes, or for the production or transmission of water, but shall not be offered for sale directly by the district to customers other than a public utility or public agency.

The authority to construct, operate, and maintain works to develop hydroelectric energy does not include, and nothing in this act permits, the acquisition of property already employed in the generation of hydroelectric energy for public utility purposes, except by mutual agreement between the district and the owner of that property.

SEC. 410. The district may, within or outside the district but within the state, acquire by purchase, condemnation, or other legal means all property or rights in property necessary or proper for district works and purposes of the district. However, any condemnation of public facilities requires a two-thirds vote of all of the members of the board or eligible voters, as applicable. Eminent domain proceedings may be brought by the district for these purposes pursuant to the Eminent Domain Law (Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure). Exercise of the powers provided in this section shall be subject to the consent required by Section 611 where applicable.

SEC. 411. The district may construct, operate, and maintain any work. This authority includes the right to repair, modify, alter, adjust, and replace any work.

SEC. 412. The district may make surveys, studies, and investigations for works relating to control of drainage, storm, and flood water within the district or to hydroelectric development.

The district may carry on and perform technical and other investigations of all kinds, make measurements, collect data, and make analyses, studies, and inspections pertaining to the control of drainage, storm, and flood water within the district or to hydroelectric development.

For these purposes, the district has the right of reasonable access through its authorized representative to all properties within the

district.

SEC. 413. The powers vested in the district by this chapter shall not be exercised within the boundaries of any local agency or other district which is authorized to exercise that power, except with the prior consent and approval of that agency or district.

The primary purpose of the district is to study, plan, and facilitate the implementation of plans, as specified in Chapter 2 (commencing with Section 610) of Part 6, leaving, wherever possible, the implementation of the plan to the local agency or other district which is best able to carry out that function.

The district may enter into joint powers agreements as permitted by law for the purpose of implementing its powers and purposes as set forth in this part.

SEC. 414. The district may disseminate information to the public concerning the rights, properties, and activities of the district.

CHAPTER 2. RATES AND CHARGES

SEC. 420. The board may, by resolution following notice and public hearing, fix rates or charges for services provided by the district, including standby charges not to exceed ten dollars ($10) per year per acre or parcel less than an acre, reflecting the reasonable cost and value of providing that service. If the board determines that rates or charges for services are an appropriate means for raising the cost of those services in lieu of, or in addition to, the assessment provided in Part 7 (commencing with Section 700), the board shall adopt a resolution determining those rates or charges for services provided that are deemed to be appropriate and directing that notice be given of the proposed fixing of rates or charges. The resolution shall identify the nature of the rate or charge proposed to be fixed, the area in which the rate or charge is to be imposed, and the nature of the benefit for which the rate or charge shall be collected.

A notice of the resolution shall be published once a week for two successive weeks in a newspaper of general circulation published in the county seat of each county located within the area as to which the rates or charges are to be made applicable. The notice shall recite the time and date of the hearing to be held by the board upon the proposed rates or charges.

At the conclusion of the hearing, the board may adopt a resolution fixing the rates or charges, setting forth the area within which the rate or charge shall be applied, the amount, the charge, and the nature of the service for which the rate or charge is imposed. One week prior to the date on which the rate or charge is made payable, a notice shall be published in the same newspaper of general circulation setting forth the nature and amount of the charge, the due date, the delinquency date, and the penalty and interest to be imposed if not paid prior to delinquency.

SEC. 421. Rates and charges, including standby charges, when

due, are a lien on the landowner's land to whom the service is provided or made available, in the nature of assessments, and may be collected and enforced in the manner provided in this act for the collection and enforcement of assessments.

SEC. 422. Rates and charges may be made payable in advance. The district may, by resolution, provide that rates and charges which remain unpaid for a period of not less than 30 days after they have become due shall be delinquent, and a one-time penalty not in excess of 10 percent shall be added on each charge as it becomes delinquent, and all delinquent rates and charges and penalties shall bear interest at a rate not to exceed 18 percent per year.

CHAPTER 3. CONTRACTS WITH THE UNITED STATES AND OTHER AGENCIES

SEC. 430. The district may cooperate and contract with the United States, the State of California, or any department or agency of either, or with any other district or political subdivision of the state authorized by law to appropriate water and deliver water to users, or control drainage, storm, flood, or other waters, for the purposes of acquisition, construction, purchase, extension, operation, or maintenance of works, whether for drainage, flood control, water conservation, hydroelectric development or for the carrying out of any of the purposes of the district, and to carry out and perform the terms of any contract so made.

CHAPTER 4. RULES AND REGULATIONS

SEC. 440. The board may adopt, by ordinance, reasonable rules and regulations to implement this act.

PART 5. FINANCIAL PROVISIONS

CHAPTER 1. FUNDS AND ACCOUNTS

SEC. 500. Any funds of the district may be deposited in the treasury of any county within the district subject to disbursement as county funds are disbursed. The disbursal shall be pursuant to this act, under the direction of the county auditor or other fiscal officer appointed by the board.

SEC. 501. The district may establish and maintain any separate funds and accounts which it deems necessary in carrying out its powers and purposes under this act.

SEC. 502. The district may make any transfers, for the purposes of a loan, from one fund to another fund of the district, or from one fund to another fund of a zone, upon terms and conditions that the board deems appropriate and to the extent permitted by law.

SEC. 503. The fiscal officer appointed by the board may invest any funds of the district or zone in any security, debenture, bond, or

deposit permitted and allowed by law for the investment of funds of a political subdivision of the state.

CHAPTER 2. IMPROVEMENT BONDS

SEC. 510. The district may, in any year, issue improvement bonds in accordance with, and pursuant to, the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), or the Refunding Assessment Bond Act of 1935 (Chapter 732 of the Statutes of 1935).

CHAPTER 3. SPECIAL BENEFIT BONDS

SEC. 520. The board may determine that a bonded indebtedness should be incurred to pay the cost of any project which will confer a special benefit on the district as a whole, or a special benefit on any zone or participating zone. The principal of, and interest on, the special benefit bonds shall be paid by revenue derived from an annual benefit assessment levied on the land benefited by the project for which the bonds were issued in the manner set forth in Chapter 1 (commencing with Section 700) of Part 7.

Before adopting a resolution to issue special benefit bonds, the board shall adopt a resolution of intention stating the intention to issue the special benefit bonds, the proposed amount of the bonds, the proposed denomination and maximum rate of interest of the bonds, a description of the proposed project for which the bonds shall be issued, and a description of the area which shall receive a special benefit from the proposed project and in which special assessments shall be levied to pay the principal of, and interest on, the bonds.

The resolution shall also state the time and place for a hearing by the board on the proposal, at which time any interested person may appear and be heard.

SEC. 521. Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation published in the district, pursuant to Section 6066 of the Government Code, the first publication to be at least 14 days prior to the time fixed for the hearing.

The hearing may be consolidated with a hearing on any other proposal affecting the same area. At the time and place so fixed, or at any time or place to which the hearing is continued, the board shall hold the hearing provided for by the resolution, at which time any interested person may appear and be heard concerning any matter set forth in the resolution or any matter material thereto.

Upon the conclusion of the hearing, the board may abandon the proposal, or order the election on the proposal within the area

affected. If prior to the conclusion of the hearing, or any continued hearing, written protest against the proposal signed by a majority in number of the eligible voters within the area determined to be benefited pursuant to Section 520 are filed with the board, further proceedings relating to the proposal shall be suspended for not less than six months following the date of the conclusion of the hearing.

If there is no majority protest, the board shall not proceed with the proposal before holding an election within the affected area. A majority of the votes cast at the election shall be required to approve the proposal to issue the bonds.

SEC. 522. Any defect or irregularity in the proceedings in the calling or conduct of the special bond election shall not affect the validity of the bonds authorized by the election.

SEC. 523. The board shall, pursuant to this act, prescribe, by resolution, the form of the bonds, which shall include a designation of the district, zone, or participating 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 at a place or places to be fixed by the board and designated in the bonds, together with interest on all sums unpaid on that date until the whole indebtedness is paid.

SEC. 524. 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 another 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 of series.

SEC. 525. The bonds shall be issued in the denomination as determined by the board.

SEC. 526. The bonds shall be payable on the date at the place fixed in the bonds, and at the interest rate specified in the bonds, and shall be made payable annually or semiannually.

SEC. 527. The bonds shall be numbered consecutively and shall be signed by the chairperson of the board and countersigned by the auditor or other fiscal officer of the district, and the seal of the district shall be affixed thereto. Either or both signatures may be printed, engraved, or lithographed.

SEC. 528. The interest coupons, if any, of the bonds shall be numbered consecutively and signed by the auditor or other fiscal officer, or by his or her printed, engraved, or lithographed signature.

SEC. 529. The proceeds from the sale of bonds shall be paid into the district treasury, placed to the credit of the project fund, and expended only for the purpose for which the indebtedness was created.

In the alternative, the proceeds of the sale of the bonds may be placed in the treasury of any county within the district to the credit of the district and the respective zone for the uses and purposes of the district zones approving the bonds, and the proper record of the

transaction shall be placed upon the books of the county treasurer, and the bond proceeds shall be applied exclusively to the purposes and objects mentioned in the resolution calling for the special bond election, subject to this act.

Payments from the bond fund shall be made upon demands prepared, presented, allowed, and audited in the same manner as demands upon the funds of the district. Unexpended bond proceeds may be invested in any manner permitted by law for district investments, and any interest earned thereon shall be credited to the project fund and expended only for the purpose for which the indebtedness was created.

SEC. 530. Any bonds issued under this chapter, and the interest thereon, shall be paid solely by revenue derived from annual benefit assessments levied as provided in this act. No zone or the property therein shall be liable for the bonded indebtedness of any other zone, nor shall any moneys derived from assessments in any of the several zones be used in payment of principal, or interest, or otherwise, of the bonded indebtedness chargeable to any other zone.

SEC. 531. Whenever bonds have been authorized by the district, and the proceeds of the sale thereof have been expended as authorized, and the board by resolution determines that additional bonds should be issued for carrying out any of the purposes of this act, the board may again proceed as provided in this chapter for the issuance of bonds.

SEC. 532. The board may, by resolution, determine that new bonds should be issued for the purpose of refunding any or all of the bonds outstanding of the district or any zone. The procedure shall be the same as the procedure upon an original issue of bonds. The refunding bonds may be issued and sold in the manner and form prescribed for an original issue of bonds, and may, if the holders of bonds of the original issue and the board so agree, be exchanged for the original bonds. The face value of the refunding bonds so exchanged shall not exceed the face value of the original bonds. The board may raise money to pay the principal of, and interest on, the refunding bonds in the same manner as prescribed for the payment of bonds of an original issue.

SEC. 533. Any bonds, original or refunding, may be made callable by resolution of the board adopted at, or prior to, the time of issuing the bonds, and providing for the calling and redemption of the bonds, in numerical order, or by lot, on any interest payment date prior to their fixed maturity, at a premium not to exceed 6 percent above the par value thereof and accrued interest. If any bonds are made callable, a statement to that effect shall be set forth on the face of the bond.

Notice of any redemption shall be published in the district pursuant to Section 6063 of the Government Code. The first publication of the notice shall be not less than 30 nor more than 90 days prior to the date fixed for the redemption.

After the date fixed for the redemption, if the district has provided

funds for the payment of the principal of, and interest on, the bonds so called, interest on the bonds shall thereafter cease.

SEC. 534. The bonds shall be sold at a public sale to the highest bidder, after notice of the sale has been given by publication in the district, pursuant to Section 6061 of the Government Code, at least one week prior to the sale and after any other notice which the board may deem proper.

The manner of making, submitting, and opening bids, and conducting the sale, and the terms thereof, shall be determined by the board. The board may reject any and all bids which, in the judgment of the board, are not in the best interest of the district. If no bids are received, or if all bids are rejected, the board may either readvertise or sell the bonds at private sale.

SEC. 535. If a proposition for issuing bonds submitted at any election under this chapter fails to receive the required number of votes of the eligible voters voting at the election to incur the indebtedness for the purpose specified, the board shall not, for six months after the election, call or order another election in the same area for incurring indebtedness and issuing bonds under this chapter for the same object and purpose.

SEC. 536. Any bond issued under this chapter shall be free and exempt from all taxation within the State of California. It is hereby declared that the district is a local government within the meaning of Section 26 of Article XIII of the California Constitution.

SEC. 537. Any bond issued under this chapter is a legal investment for all trust funds, and for the funds of all insurance companies, banks both commercial and savings, and trust companies, for 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, the money or funds may be invested in bonds of the district, issued in accordance with this act, and whenever bonds of cities, cities and counties, counties, school districts, or municipalities may, by law now or hereafter enacted be used as security for the performance of any act, the bonds of the district may be so used.

This section is the latest enactment with respect to the matters contained in this section.

SEC. 538. The repeal or amendment of this act, or the dissolution or change in the boundaries of the district or any zone, shall not in any way affect or release any of the land in the district or zone from its liability on, or from the obligations of, any outstanding bonds or indebtedness or contracts for which the land is in any way security, until all bonds and outstanding indebtedness and contracts have been fully paid or discharged.

CHAPTER 4. REVENUE BONDS

SEC. 540. If the board, by resolution, determines that a bonded indebtedness to pay for the acquisition or construction of any project

or work for any purposes of the district, or zone, or for refunding any outstanding bonds, should be incurred and can be repaid and liquidated as to both principal and interest from revenues designated by the board, the district may define the project or work as an "enterprise" consistent with the definition in Section 54309 of the Government Code, and issue revenue bonds all in the manner and as provided in 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 that purpose, the district is a "local agency," as defined in Section 54307 of the Government Code.

CHAPTER 5. SHORT-TERM BORROWING

SEC. 550. The district may borrow money and incur indebtedness in the manner set forth in this chapter by action of the board and without the necessity of calling and holding an election in the district.

SEC. 551. Indebtedness may be incurred pursuant to this chapter for any purpose for which the district may expend funds.

SEC. 552. Indebtedness incurred under this chapter shall be evidenced by warrants of the district payable not to exceed five years from their date and bearing interest at a rate not to exceed the maximum interest permitted for the sale of bonds of the district.

SEC. 553. The warrants shall be issued by the district after the adoption by a four-fifths vote of all of the members of the board of a resolution setting forth the form of the warrant, the maturity date or dates thereof, and the manner of execution thereof.

SEC. 554. The board may, in its resolution, require that the warrant be subject to call and redemption prior to maturity, at the option of the district, at such prices as may be fixed in the resolution, not to exceed a premium of 6 percent of the par value of the warrants subject to redemption. The resolution shall fix a method of giving notice of redemption to the holders of warrants to be redeemed and the price at which the warrants shall be subject to redemption. Warrants subject to call and redemption prior to maturity shall contain a recital to that effect on their face.

SEC. 555. The warrants issued shall be offered for public sale upon notice inviting sealed bids therefor. The notice shall be given by publication once in a newspaper of general circulation in the district, and the sale shall not be held before 10 days after the publication.

The board may reject all bids received on public sale and either readvertise or sell the warrants at private sale.

The district may sell the warrants at a price below par value, but not to exceed 6 percent of the par value thereof.

CHAPTER 7. MAXIMUM INTEREST AND DISCOUNT RATES

SEC. 560. Notwithstanding any other provision of law, a bond or evidence of indebtedness of the district or any zone may bear interest at a rate or rates as determined by the board in its discretion, but not to exceed the maximum rate allowed by Section 53531 of the Government Code.

SEC. 561. In addition to interest paid on a bond or evidence of indebtedness of the district, the board, in its discretion, may sell the bond or evidence of indebtedness at less than its par or face value, but not to exceed 6 percent of the par or face value thereof.

PART 6. PROJECTS

CHAPTER 1. ZONES of BENEFIT

SEC. 600. The board shall divide the district into zones if, in the opinion of the board, that division is necessary because of varying benefits to the property within the district. The district may be divided into as many zones as may be deemed necessary, and each zone shall be composed of and include all of the lands in the district which, in the opinion of the board, will be benefited in like manner.

Each zone shall be designated on a map or plat of the district filed in the office of the board, and that designation shall show the separate boundaries of each zone and a statement of the percentage of benefit received in each zone.

The zone determined by the board to receive the greatest benefit shall be designated as a 100 percent zone. The percentages applicable to each of the other zones within the district shall be in proportion to the relationship which the benefits received within that zone bear to those received in the zone determined to be a 100 percent zone.

If, in the opinion of the board, modification of the zones is appropriate in order to better reflect the benefits as then received by lands within the district from activities of the district, a new map shall be prepared and adopted in the manner prescribed in this part showing the proposed new zone boundaries with a statement of the percentage of benefit received in each zone.

Determination of benefits shall include consideration of the extent to which natural conditions have been changed, and those zones with little or no change shall be deemed to have the least benefit.

SEC. 601. Upon the filing of the map, as provided in Section 600, the board 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 three successive weeks. The notice shall designate the time and place of hearing by the board, 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 percentages of

benefit to be allocated to each zone. All objections shall be in writing, verified by the person or persons making the objection, and filed with the board on or before the date fixed for the hearing.

Upon that hearing, the board may change or modify any of the zones or the percentages of benefit allocated thereto. The hearing may be continued from time to time by the board by an order entered on its minutes. The location and extent of the zones within the district and the percentages of benefit allocated thereto shall be finally established and determined by the board and shall prevail for all purposes until further modified pursuant to this chapter.

Findings and determination of the board as to the extent and boundaries of the zones and the percentages of benefit received therein shall be final and conclusive, unless challenged by action filed with the Superior Court for the County of Colusa within 30 days after the determination has been made.

CHAPTER 2. SELECTION OF PROJECTS

SEC. 610. The first project to be undertaken shall be the development of an economically feasible initial plan to improve or mitigate the drainage, flooding, and subsidence problems within the district, including financing measures to carry out the plan. The plan shall be presented at a public hearing to be held after notice published for three successive weeks in a newspaper of general circulation published in the county seat of each county within the district, which hearing shall be held within three years from the organization of the full board.

No action to implement the plan shall be taken until the plan is approved by a majority of the votes cast by eligible voters within the district at a special election called for that purpose.

SEC. 611. The board shall determine which additional projects shall be carried out. The board shall, wherever possible, encourage the particular project to be carried out by the local agency or district within the area to be benefited by the project, and any project is subject to the consent of the local agency or district within whose boundaries the project is proposed to the extent that the agency or district has the authority to construct, operate, and maintain the project.

SEC. 612. Before proceeding with any project, the board shall adopt a resolution of intention stating its intention to undertake the project, together with an estimate of the cost of the project and the area affected by the project, and fixing a time and place for public hearing on the resolution.

The resolution shall refer to a map or maps showing the general location of the project and shall generally describe the project.

Notice of the hearing shall be given in the same manner as for the filing of the zone map pursuant to Section 601.

SEC. 613. At the time and place fixed for the hearing, or at any time or place to which the hearing is continued, the board shall hold

the hearing provided for by the resolution, at which time any interested person may appear and be heard concerning any matter set forth in the resolution or any matters material thereto.

Upon the conclusion of the hearing, the board may abandon the proposal, modify it, order an election on the proposal to be held within the area affected by the project, or proceed with the proposal. If prior to the conclusion of the hearing, or any continued hearing, written protests against the proposal signed by a majority in number of the eligible voters within the area affected by the project as stated, pursuant to Section 612 is filed with the board, further proceedings relating to the proposal shall be suspended for not less than six months following the date of the conclusion of the hearing.

If an election is held, a majority of the votes cast at the election shall be required to approve the proposal.

PART 7. ASSESSMENTS

CHAPTER 1. BENEFIT ASSESSMENTS

SEC. 700. The district may levy benefit assessments on a districtwide basis or within any zone, upon land only, as follows:

(a) An initial assessment for formation costs may be levied on the basis of an equal amount per acre as shown on the county assessment rolls, but not to exceed ten cents ($0.10) per acre. It is hereby declared for that purpose that the benefit of formation is received equally by all land.

(b) A benefit assessment pursuant to this part, based upon the respective acreages of the lands assessed and the categories and land use factors as set forth in Section 701 for the purpose of preparing the initial plan described in Section 610, except that the assessment to finance the initial plan may not be utilized for more than five years from the organization of the full board and may not be imposed in an amount which would exceed ten cents ($0.10) per unirrigable acre per year.

(c) Annual assessments pursuant to Section 702.

SEC. 701. As the basis for assessments under this part except for the initial assessment, and as a basis for determining the number of votes to be cast pursuant to Part 3 (commencing with Section 300), a benefit factor shall be determined for each parcel of land within the district based upon the parcel's proportionate benefits determined from its location, size, and capacity for being put to use, in comparison to all other parcels in the district.

A parcel's benefit factor shall be deemed to equal the number of acres within the respective parcel multiplied by the percentage benefit for the zone in which the parcel is located, as defined in Section 600, and multiplied by the parcel's land-use factor as specified below:

Category	Land Use Factor
(1) Unirrigable agricultural land	1
(2) Irrigable agricultural land	2
(3) Single-family, residential	5
(4) Commercial, industrial, and other highly improved property	10

The categories of land set forth above, as used in determining the benefit factor for each parcel within the district, shall be taken from the information regarding land use of the respective parcel as shown in the records of the county assessor for the county in which the parcel is located.

SEC. 702. Prior to April 1 of any year, landowners in the district may petition the board that it review the land use categories and factors set forth in Section 701, or the board may elect to do so on its own motion. The petition shall be signed by at least 50 landowners within the district.

The board shall set a time and place for a hearing upon the petition or upon its own motion, and shall give notice of the hearing in the manner set forth in Section 6066 of the Government Code. At the hearing, the board shall hear all evidence presented regarding the land use factors and categories and shall determine whether the categories or land use factors assigned to each category should be altered, expanded, or modified in any respect.

The board may, by resolution at the conclusion of the hearing, modify the categories and factors as, in its judgment, may be required for fair and practical apportionment of the benefits received from the district for the purpose of assessments and voting.

SEC. 703. Benefit assessments may be levied for expenditures made, or expenditures estimated to be required during the following calendar or fiscal year, for any lawful purpose of the district, including, but not limited to, the following purposes:

(a) The administrative expenses of the district.

(b) The formation and administrative expenses of any zone.

(c) Engineering and other expenses in connection with the investigation and preparation of a resource management plan or plan for any work or project.

(d) Acquisition or construction of any work or project.

(e) Operation and maintenance of any work or project.

(f) Payment of the principal of, and interest on, special benefit bonds issued in the manner set forth in Chapter 3 (commencing with Section 520) of Part 5.

The revenues derived from the benefit assessment shall be used only for the purpose specified at the time of levy of the assessment.

SEC. 704. The board may adopt a resolution of intention to levy a special benefit assessment. The resolution shall set forth the proposed amount, manner of levy, and purpose of the proposed

benefit assessment and designate by a map or otherwise the boundaries of the area proposed for assessment, and shall designate a time and place of hearing on the resolution. Except for the initial assessment, the assessment shall be determined by the benefit factor applicable to each parcel within the district as established under Sections 701 and 702 and Part 6 (commencing with Section 600). After the initial assessment, the assessment to be charged against each parcel shall be determined by multiplying the total amount of the assessment to be collected from all parcels by the following fraction: the acreage of each parcel, times the land use factor for that parcel established pursuant to Sections 701 and 702, times the percentage of benefit received by that parcel established in accordance with Part 6 (commencing with Section 600); the resulting product, which shall be the benefit factor applicable to the particular parcel, shall be divided by the total of the benefit factors of all parcels within the district.

SEC. 705. Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation published in the district pursuant to Section 6066 of the Government Code, the first publication to be at least 14 days prior to the time fixed for the hearing.

SEC. 706. At the time and place fixed for the hearing, or at any time or place to which the hearing is continued, the board shall hold the hearing provided for by the resolution, at which time any interested person may appear and be heard concerning any matter set forth in the resolution or any matters material thereto. Upon the conclusion of the hearing, the board may terminate further proceedings on the proposed assessment, modify the proposed assessment, or levy the assessment.

SEC. 707. After its approval, the benefit assessment shall be levied, collected, and enforced at the same time and in the same manner as county taxes.

SEC. 708. For the purpose of any assessment levied under this part, the board may establish a minimum assessment for each separately assessed parcel not to exceed five dollars ($5) per parcel.

SEC. 800. 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 1400

An act to amend Section 50805 of, and to add Chapter 11.5 (commencing with Section 50810) to Part 2 of Division 31 of, the Health and Safety Code, relating to homeless persons, and making an appropriation therefor.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. 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 50 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. 2. Chapter 11.5 (commencing with Section 50810) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 11.5. TRANSITIONAL HOUSING RENTAL DEPOSIT GUARANTEE DEMONSTRATION PROGRAM

50810. The Legislature finds and declares that one of the most difficult problems that temporarily homeless families face in seeking permanent housing is the necessity of paying not only the first month's rent, but also an additional security deposit for potential damages and rent defaults. Current state law permits the security deposit to equal two times the monthly rent and it is often difficult for very low income persons to obtain this amount of savings. Furthermore, the difficulty of paying a security deposit is exacerbated when the family has been forced to use its savings to purchase temporary shelter in a motel when space at an emergency housing shelter was not available.

The Legislature further finds and declares that a transitional housing rental deposit guarantee demonstration program will provide a valuable mechanism for testing the effectiveness of providing security deposit guarantees to assist homeless families in making the transition from a temporary emergency housing shelter into permanent rental housing. Future programs based on such a demonstration program will also assist owners of low-income rental property in reducing vacancy rates and in contacting potential tenants.

50811. The Director of Housing and Community Development shall establish the Transitional Housing Rental Deposit Guarantee Demonstration Program within the program established under Chapter 11 (commencing with Section 50800). Under the demonstration program, the department shall provide grants and technical assistance only to local nonprofit agencies or local governments operating emergency housing shelters to enable them to provide contractual guarantees for the payment of residential rental security deposits pursuant to this chapter. In order to be eligible for a grant under this chapter, the recipient shall match 15 percent of the dollar amount of the grant from private donations.

50812. (a) The department is encouraged to establish a minimum grant level which is in the amount of approximately ten thousand dollars ($10,000) for rural areas and twenty thousand dollars ($20,000) for other areas. The maximum amount of funding provided in any county listed in Section 50817 shall be forty-five thousand dollars ($45,000).

(b) The grants and matching funds shall be placed by the recipient local agency or organization in a revolving loan fund and deposited in a bank or other savings institution, in an account separate from all other funds of the eligible recipient. The funds and interest earned on these funds shall be utilized only as collateral to guarantee the payment of a security deposit required by a residential

rental property owner as a condition for entering a rental agreement with a prospective tenant, where the security deposit has been guaranteed under a contract entered into pursuant to Section 50814.

50813. Prospective tenants who are eligible to participate in a deposit guarantee contract shall be limited to homeless persons who are residing in an emergency housing shelter operated by a nonprofit organization or local governmental agency and who have a source of income sufficient to pay a monthly rental payment, but do not have the funds necessary for the payment of a security deposit. First priority for funds shall be families with minor children. Homeless families who are temporarily residing in a park, car, or are otherwise without shelter shall also be eligible.

Prior to entering into a contract with a prospective tenant under Section 50814, the local agency shall make a determination of the eligibility of the household to participate in the program and a determination that an appropriate rental unit is available for occupation. A determination of eligibility shall include a verification of income and a determination that the head of the household is actually homeless.

50814. A three-party contract shall be required of persons participating in the Transitional Housing Rental Deposit Guarantee Demonstration Program. The parties to the contract shall be the local agency or organization operating a shelter for homeless persons, the tenant, and the rental property owner. The terms of the contract shall include all of the following:

(a) The owner of the rental property shall agree to allow the security deposit to be paid over a specified number of months as an addition to the regular rental payment, rather than as a lump-sum payment.

(b) Upon execution of the agreement, the local agency or organization shall encumber or reserve funds in a special fund created pursuant to subdivision (b) of Section 50812, as a guarantee of the contract, an amount no less than 80 percent of the outstanding balance of the security deposit owed by the tenant to the landlord.

(c) The tenant shall agree to a payment schedule of a specified number of months in which time the total amount of the required deposit shall be paid to the property owner.

(d) At any time during the operation of the guarantee, the property owner will make all claims first against amounts of the security deposit actually paid by the tenant and secondarily against the guarantee. At no time during or after the tenancy may the property owner make claims against the guarantee in excess of that amount agreed to as the guarantee.

(e) If a deduction from the guarantee fund is required, it may be accomplished only to the extent permitted by the contract and in the manner provided by law, including notice to the local agency or organization. The tenant shall have no direct use of guarantee funds, including funds which may be referred to as "last month's rent."

The department shall make available to local agencies and

organizations receiving grants under this chapter forms deemed necessary for the contracts and the determination of eligibility. However, local agencies and organizations may develop and use their own forms as long as the forms meet the requirements specified in this chapter.

50815. A local agency or organization receiving a grant under this chapter may utilize a portion of the allocation for costs of administering and operating its security deposit guarantee program. The department shall approve the amount so utilized prior to expenditure, and the amount may not exceed 5 percent of the allocation. The staff of the grant recipient shall be responsible for soliciting housing opportunities for low-income homeless persons, coordinating with local low-income rental property owners, making determinations regarding the eligibility of prospective tenants for the program and providing information to prospective tenants on the tenant property owner relationship, appropriate treatment of property, and the importance of timely rental payments. The staff of the grant recipient assigned to administer the program shall be reasonably available to property owners and tenants to answer questions or complaints about the program.

50816. The department shall develop a list of data elements to be collected by each grant recipient for use in evaluating the program's effectiveness. These data elements shall include all of the following:

(a) The number of persons utilizing the program.

(b) The number of defaults and the amount the grant recipient was required to pay for each default.

(c) The average amount of administrative time spent to execute an agreement.

(d) The balance of the grant revolving fund, its location, and the amount of the unencumbered balance therein.

(e) The estimated length of time necessary to commence operating the program at the local level.

(f) The estimated total costs to be incurred at the local level for administration and operation of the program, and the ongoing, actual costs at the local level for administration and operation of the program, reported in accordance with a schedule developed by the department.

A grant recipient shall collect the data regularly pursuant to a schedule to be determined by the department for use in evaluating the effectiveness of the demonstration program, and shall forward the data to the department on or before January 1 of each year. This information shall be provided to the Governor and the Legislature in the report required by subdivision (c) of Section 50806.

50817. During the first year in which funds are available for allocation under this chapter, the department shall offer grants to at least seven local agencies or organizations or consortiums thereof. These allocations shall include a sample of various geographic areas including the Counties of Los Angeles, Contra Costa, Fresno, San Francisco, Alameda, Sacramento, and at least one rural area in

northern California. In allocating funds appropriated for the purposes of this chapter, the department shall consider the cost of rental housing in the respective areas.

SEC. 3. Subsequent to the effective date of this chapter, the initial award of funding made available under the program authorized by Chapter 11 (commencing with Section 50800) of Part 2 of Division 31 of the Health and Safety Code shall include the sum of two hundred thousand dollars ($200,000), which shall be made available from the Emergency Housing and Assistance Fund, as created pursuant to Section 50800.5 of the Health and Safety Code for the purposes of the program established by Chapter 11.5 (commencing with Section 50810) of Part 2 of the Division 31 of the Health and Safety Code. All funds made available for this purpose shall be derived from interest earnings received by the Emergency Housing Assistance Fund from the investment of revenues in the Surplus Money Investment Fund, as created pursuant to Section 16471 of the Government Code. The reservation provided by this section shall be utilized only for purposes of the initial appropriation to the Transitional Housing Rental Deposit Guarantee Demonstration Program established by Chapter 11.5 (commencing with Section 50810) of Part 2 of Division 31 of the Health and Safety Code. No further reservation or transfer shall be made from the Emergency Housing and Assistance Fund for this purpose.

CHAPTER 1401

An act to amend Section 10133.1 of the Business and Professions Code, relating to real estate brokers.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 10133.1 of the Business and Professions Code is amended to read:

10133.1. (a) Subdivisions (d) and (e) of Section 10131, Section 10131.1, Article 5 (commencing with Section 10230), Article 6 (commencing with Section 10237), and Article 7 (commencing with Section 10240) and Section 1695.13 of the Civil Code do not apply to any of the following:

(1) Any person or employee thereof doing business under any law of this state, any other state, or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, pension trusts, credit unions, or insurance companies.

(2) Any nonprofit cooperative association organized under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, in loaning or advancing money in

connection with any activity mentioned therein.

(3) Any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, or bee products on a cooperative nonprofit basis, in loaning or advancing money to the members thereof or in connection with any such business.

(4) Any corporation securing money or credit from any federal intermediate credit bank organized and existing pursuant to the provisions of an act of Congress entitled the "Agricultural Credits Act of 1923," in loaning or advancing money or credit so secured.

(5) Any person licensed to practice law in this state, not actively and principally engaged in the business of negotiating loans secured by real property, when that person renders services in the course of his or her practice as an attorney at law, and the disbursements of that person, whether paid by the borrower or other person, are not charges or costs and expenses regulated by or subject to the limitations of Article 7 (commencing with Section 10240), provided, the fees and disbursements shall not be shared, directly or indirectly, with the person negotiating the loan or the lender.

(6) Any person licensed as a personal property broker, a consumer finance lender, or a commercial finance lender when acting under the authority of that license.

(7) Any cemetery authority as defined by Section 7018 of the Health and Safety Code which is authorized to do business in this state or its authorized agent.

(8) Any person authorized in writing by a savings institution to act as an agent of that institution, as authorized by Section 6520 of the Financial Code or comparable authority of the Federal Home Loan Bank Board by its regulations, when acting under the authority of such written authorization.

(b) Persons described in either paragraph (1) or (2) are exempt from the provisions of subdivisions (d) and (e) of Section 10131 with respect to the collection of payments for lenders or on notes of owners in connection with loans secured directly or collaterally by liens on real property:

(1) The person makes collections on 10 or less of those loans, or in amounts of forty thousand dollars ($40,000) or less in any calendar year.

(2) The person is a corporation licensed as an escrow agent under Division 6 (commencing with Section 17000) of the Financial Code and the payments are deposited and maintained in the escrow agent's trust account.

CHAPTER 1402

An act to amend Section 66484.3 of the Government Code, relating to subdivisions.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987]

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

SECTION 1. Section 66484.3 of the Government Code is amended to read:

66484.3. (a) The Board of Supervisors of the County of Orange and the city council or councils of any city or cities in that county may, by ordinance, require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares.

(b) The local ordinance may require payment of fees pursuant to this section if:

(1) The ordinance refers to the circulation element of the general plan and, in the case of bridges, to the transportation provisions or flood control provisions of the general plan which identify railways, freeways, streams, or canyons for which bridge crossings are required on general plan or local roads and in the case of major thoroughfares, to the provisions of the circulation element which identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to or which is part of the state highway system, and the circulation element, transportation provisions, or flood control provisions have been adopted by the local agency 30 days prior to the filing of a map or application for a building permit. Bridges which are part of a major thoroughfare need not be separately identified in the transportation or flood control provisions of the general plan.

(2) The ordinance provides that there will be a public hearing held by the governing body for each area benefited. Notice shall be given pursuant to Section 65905. In addition to the requirements of Section 65905, the notice shall contain preliminary information related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment. The area of benefit may include land or improvements in addition to the land or improvements which are the subject of any map or building permit application considered at the proceedings.

(3) The ordinance provides that at the public hearing, the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment are established. The method of fee apportionment, in the case of major thoroughfares, shall not provide

for higher fees on land which abuts the proposed improvement except where the abutting property is provided direct usable access to the major thoroughfare. A description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing shall be incorporated in a resolution of the governing body, a certified copy of which shall be recorded by the governing body conducting the hearing with the recorder of the county in which the area of benefit is located. The resolution may subsequently be modified in any respect by the governing body. Modifications shall be adopted in the same manner as the original resolution. Any modification shall be subject to the protest procedures prescribed by paragraph (6). The resolution may provide for automatic periodic adjustment of fees based upon the California Construction Cost Index prepared and published by the Department of Transportation, without further action of the governing body, including, but not limited to, public notice or hearing. The apportioned fees shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of a final map or as a condition of issuing a building permit for any of the property or portions of the property. Where the area of benefit includes lands not subject to the payment of fees pursuant to this section, the governing body shall make provision for payment of the share of improvement costs apportioned to those lands from other sources, but those sources need not be identified at the time of the adoption of the resolution.

(4) The ordinance provides that payment of fees shall not be required unless the major thoroughfares are in addition to, or a reconstruction or widening of, any existing major thoroughfares serving the area at the time of the adoption of the boundaries of the area of benefit.

(5) The ordinance provides that payment of fees shall not be required unless the planned bridge facility is an original bridge serving the area or an addition to any existing bridge facility serving the area at the time of the adoption of the boundaries of the area of benefit. Fees imposed pursuant to this section shall not be expended to reimburse the cost of existing bridge facility construction, unless these costs are incurred in connection with the construction of an addition to an existing bridge for which fees may be required.

(6) The ordinance provides that if, within the time when protests may be filed under its provisions, there is a written protest, filed with the clerk of the legislative body, by the owners of more than one-half of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of that to be benefited, then the proposed proceedings shall be abandoned, and the legislative body shall not, for one year from the filing of that written protest, commence or carry on any proceedings for the same improvement or acquisition under this section, unless the protests are overruled by an affirmative vote of four-fifths of the legislative body.

Nothing in this section shall preclude the processing and recordation of maps in accordance with other provisions of this division if proceedings are abandoned.

Any protests may be withdrawn in writing by the owner who filed the protest, at any time prior to the conclusion of a public hearing held pursuant to the ordinance.

If any majority protest is directed against only a portion of the improvement then all further proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year, but the legislative body shall not be barred from commencing new proceedings not including any part of the improvement or acquisition so protested against. Nothing in this section shall prohibit the legislative body, within the one-year period, from commencing and carrying on new proceedings for the construction of a portion of the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with that portion of the improvement or acquisition.

(c) Fees paid pursuant to an ordinance adopted pursuant to this section shall be deposited in a planned bridge facility or major thoroughfare fund. A fund shall be established for each planned bridge facility project or each planned major thoroughfare project. If the benefit area is one in which more than one bridge or major thoroughfare is required to be constructed, a fund may be so established covering all of the bridge or major thoroughfare projects in the benefit area. Moneys in the fund shall be expended solely for the construction or reimbursement for construction of the improvement serving the area to be benefited and from which the fees comprising the fund were collected, or to reimburse the county or a city for the cost of constructing the improvement.

(d) An ordinance adopted pursuant to this section may provide for the acceptance of considerations in lieu of the payment of fees.

(e) The county or a city imposing fees pursuant to this section may advance money from its general fund or road fund to pay the cost of constructing the improvements and may reimburse the general fund or road fund from planned bridge facility or major thoroughfares funds established to finance the construction of the improvements.

(f) The county or a city imposing fees pursuant to this section may incur an interest-bearing indebtedness for the construction of bridge facilities or major thoroughfares, and may enter into joint exercise of powers agreements with other local agencies imposing fees pursuant to this section, for the purpose of, among others, jointly exercising as a duly authorized original power established by this section, in addition to those through a joint exercise of powers agreement, those powers authorized in Chapter 5 (commencing with Section 31100) of Division 17 of the Streets and Highways Code for the purpose of constructing bridge facilities and major thoroughfares in lieu of a

tunnel and appurtenant facilities, and, notwithstanding Section 31200 of the Streets and Highways Code, may acquire by dedication, gift, purchase, or eminent domain, any franchise, rights, privileges, easements, or other interest in property, either real or personal, necessary therefor on segments of the state highway system, including, but not limited to, those segments of the state highway system eligible for federal participation pursuant to Title 23 of the United States Code.

An entity constructing bridge facilities and major thoroughfares pursuant to this section shall design and construct the bridge facilities and major thoroughfares to the standards and specifications of the Department of Transportation then in effect, and may, at any time, transfer all or a portion of the bridge facilities and major thoroughfares to the state subject to the terms and conditions as shall be satisfactory to the Director of the Department of Transportation. Any of these bridge facilities and major thoroughfares shall be designated as a portion of the state highway system prior to its transfer. The sole security for repayment of the indebtedness shall be moneys in planned bridge facility or major thoroughfares funds. The participants in a joint exercise of powers agreement may also exercise as a duly authorized original power established by this section the power to establish and collect toll charges only for paying for the costs of construction of the major thoroughfare for which the toll is charged and for the costs of collecting the tolls. Major thoroughfares from which tolls are charged shall utilize the toll collection equipment most capable of moving vehicles expeditiously and efficiently, best suited for that purpose as determined by the participants in the joint exercise of powers agreement. However, in no event shall the powers authorized in Chapter 5 (commencing with Section 31100) of Division 17 of the Streets and Highways Code be exercised unless a resolution is first adopted by the legislative body of the agency finding that adequate funding for the portion of the cost of constructing those bridge facilities and major thoroughfares not funded by the development fees collected by the agency is not available from any federal, state, or other source. Any major thoroughfare constructed and operated as a toll road pursuant to this section shall only be constructed parallel to other public thoroughfares and highways.

(g) The term "construction," as used in this section, includes design, acquisition of right-of-way, administration of construction contracts, and actual construction, and also includes reasonable administrative expenses, not exceeding six hundred thousand dollars ($600,000) in any calendar year, incurred in association with those activities.

(h) Nothing in this section shall be construed to preclude the County of Orange or any city within that county from providing funds for the construction of bridge facilities or major thoroughfares to defray costs not allocated to the area of benefit.

(i) Any city within the County of Orange may require the

payment of fees in accordance with this section as to any property in an area of benefit within the city's boundaries, for facilities shown on its general plan or the county's general plan, whether the facilities are situated within or outside the boundaries of the city, and the county may expend fees for facilities or portions thereof located within cities in the county.

(j) The validity of any fee required pursuant to this section shall not be contested in any action or proceeding unless commenced within 60 days after recordation of the resolution described in paragraph (3) of subdivision (b). The provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure shall be applicable to any such action or proceeding. This subdivision shall also apply to modifications of fee programs.

SEC. 2. Section 66484.3 of the Government Code is amended to read:

66484.3. (a) The Board of Supervisors of the County of Orange and the city council or councils of any city or cities in that county may, by ordinance, require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares.

(b) The local ordinance may require payment of fees pursuant to this section if:

(1) The ordinance refers to the circulation element of the general plan and, in the case of bridges, to the transportation provisions or flood control provisions of the general plan which identify railways, freeways, streams, or canyons for which bridge crossings are required on the general plan or local roads, and in the case of major thoroughfares, to the provisions of the circulation element which identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to or which is part of the state highway system, and the circulation element, transportation provisions, or flood control provisions have been adopted by the local agency 30 days prior to the filing of a map or application for a building permit. Bridges which are part of a major thoroughfare need not be separately identified in the transportation or flood control provisions of the general plan.

(2) The ordinance provides that there will be a public hearing held by the governing body for each area benefited. Notice shall be given pursuant to Section 65905. In addition to the requirements of Section 65905, the notice shall contain preliminary information related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment. The area of benefit may include land or improvements in addition to the land or improvements which are the subject of any map or building permit application considered at the proceedings.

(3) The ordinance provides that at the public hearing, the boundaries of the area of benefit, the costs, whether actual or

estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment are established. The method of fee apportionment, in the case of major thoroughfares, shall not provide for higher fees on land which abuts the proposed improvement except where the abutting property is provided direct usable access to the major thoroughfare. A description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing shall be incorporated in a resolution of the governing body, a certified copy of which shall be recorded by the governing body conducting the hearing with the recorder of the County of Orange. The resolution may subsequently be modified in any respect by the governing body. Modifications shall be adopted in the same manner as the original resolution. Any modification shall be subject to the protest procedures prescribed by paragraph (6). The resolution may provide for automatic periodic adjustment of fees based upon the California Construction Cost Index prepared and published by the Department of Transportation, without further action of the governing body, including, but not limited to, public notice or hearing. The apportioned fees shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of a final map or as a condition of issuing a building permit for any of the property or portions of the property. Where the area of benefit includes lands not subject to the payment of fees pursuant to this section, the governing body shall make provision for payment of the share of improvement costs apportioned to those lands from other sources, but those sources need not be identified at the time of the adoption of the resolution.

(4) The ordinance provides that payment of fees shall not be required unless the major thoroughfares are in addition to, or a reconstruction or widening of, any existing major thoroughfares serving the area at the time of the adoption of the boundaries of the area of benefit.

(5) The ordinance provides that payment of fees shall not be required unless the planned bridge facility is an original bridge serving the area or an addition to any existing bridge facility serving the area at the time of the adoption of the boundaries of the area of benefit. Fees imposed pursuant to this section shall not be expended to reimburse the cost of existing bridge facility construction, unless these costs are incurred in connection with the construction of an addition to an existing bridge for which fees may be required.

(6) The ordinance provides that if, within the time when protests may be filed under its provisions, there is a written protest, filed with the clerk of the legislative body, by the owners of more than one-half of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of that to be benefited, then the proposed proceedings shall be abandoned, and the legislative body shall not, for one year from the filing of that written protest,

commence or carry on any proceedings for the same improvement or acquisition under this section, unless the protests are overruled by an affirmative vote of four-fifths of the legislative body.

Nothing in this section shall preclude the processing and recordation of maps in accordance with other provisions of this division if proceedings are abandoned.

Any protests may be withdrawn in writing by the owner who filed the protest, at any time prior to the conclusion of a public hearing held pursuant to the ordinance.

If any majority protest is directed against only a portion of the improvement then all further proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year, but the legislative body shall not be barred from commencing new proceedings not including any part of the improvement or acquisition so protested against. Nothing in this section shall prohibit the legislative body, within the one-year period, from commencing and carrying on new proceedings for the construction of a portion of the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with that portion of the improvement or acquisition.

(c) Fees paid pursuant to an ordinance adopted pursuant to this section shall be deposited in a planned bridge facility or major thoroughfare fund. A fund shall be established for each planned bridge facility project or each planned major thoroughfare project. If the benefit area is one in which more than one bridge or major thoroughfare is required to be constructed, a fund may be so established covering all of the bridge or major thoroughfare projects in the benefit area. Moneys in the fund shall be expended solely for the construction or reimbursement for construction of the improvement serving the area to be benefited and from which the fees comprising the fund were collected, or to reimburse the county or a city for the cost of constructing the improvement.

(d) An ordinance adopted pursuant to this section may provide for the acceptance of considerations in lieu of the payment of fees.

(e) The county or a city imposing fees pursuant to this section may advance money from its general fund or road fund to pay the cost of constructing the improvements and may reimburse the general fund or road fund from planned bridge facilities or major thoroughfares funds established to finance the construction of the improvements.

(f) The county or a city imposing fees pursuant to this section may incur an interest-bearing indebtedness for the construction of bridge facilities or major thoroughfares, and may enter into joint exercise of powers agreements with other local agencies imposing fees pursuant to this section, for the purpose of, among others, jointly exercising as a duly authorized original power established by this section, in addition to those through a joint exercise of powers agreement, those

powers authorized in Chapter 5 (commencing with Section 31100) of Division 17 of the Streets and Highways Code for the purpose of constructing bridge facilities and major thoroughfares in lieu of a tunnel and appurtenant facilities, and, notwithstanding Section 31200 of the Streets and Highways Code, may acquire by dedication, gift, purchase, or eminent domain, any franchise, rights, privileges, easements, or other interest in property, either real or personal, necessary therefor on segments of the state highway system, including, but not limited to, those segments of the state highway system eligible for federal participation pursuant to Title 23 of the United States Code.

An entity constructing bridge facilities and major thoroughfares pursuant to this section shall design and construct the bridge facilities and major thoroughfares to the standards and specifications of the Department of Transportation then in effect, and may, at any time, transfer all or a portion of the bridge facilities and major thoroughfares to the state subject to the terms and conditions as shall be satisfactory to the Director of the Department of Transportation. Any of these bridge facilities and major thoroughfares shall be designated as a portion of the state highway system prior to its transfer. The sole security for repayment of the indebtedness shall be moneys in planned bridge facilities or major thoroughfares funds. The participants in a joint exercise of powers agreement may also exercise as a duly authorized original power established by this section the power to establish and collect toll charges only for paying for the costs of construction of the major thoroughfare for which the toll is charged and for the costs of collecting the tolls. Major thoroughfares from which tolls are charged shall utilize the toll collection equipment most capable of moving vehicles expeditiously and efficiently, best suited for that purpose as determined by the participants in the joint exercise of powers agreement. However, in no event shall the powers authorized in Chapter 5 (commencing with Section 31100) of Division 17 of the Streets and Highways Code be exercised unless a resolution is first adopted by the legislative body of the agency finding that adequate funding for the portion of the cost of constructing those bridge facilities and major thoroughfares not funded by the development fees collected by the agency is not available from any federal, state, or other source. Any major thoroughfare constructed and operated as a toll road pursuant to this section shall only be constructed parallel to other public thoroughfares and highways.

(g) The term "construction," as used in this section, includes design, acquisition of right-of-way, administration of construction contracts, and actual construction, and also includes reasonable administrative expenses, not exceeding six hundred thousand dollars ($600,000) in any calendar year, incurred in association with those activities.

(h) Nothing in this section shall be construed to preclude the County of Orange or any city within that county from providing

funds for the construction of bridge facilities or major thoroughfares to defray costs not allocated to the area of benefit.

(i) Any city within the County of Orange may require the payment of fees in accordance with this section as to any property in an area of benefit within the city's boundaries, for facilities shown on its general plan or the county's general plan, whether the facilities are situated within or outside the boundaries of the city, and the county may expend fees for facilities or portions thereof located within cities in the county.

(j) The validity of any fee required pursuant to this section shall not be contested in any action or proceeding unless commenced within 60 days after recordation of the resolution described in paragraph (3) of subdivision (b). The provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure shall be applicable to any such action or proceeding. This subdivision shall also apply to modifications of fee programs.

(k) If the County of Orange and any city within that county have entered into a joint powers agreement for the purpose of constructing the bridges and major thoroughfares referred to in Sections 50029 and 66484.3, and if a proposed change of organization or reorganization includes any territory of an area of benefit established pursuant to Sections 50029 and 66484.3, within a successor local agency, the local agency shall not take any action that would impair, delay, frustrate, obstruct, or otherwise impede the construction of the bridges and major thoroughfares referred to in this section.

SEC. 3. Section 66484.3 of the Government Code, as amended by Section 1 of Senate Bill 1074, is amended to read:

66484.3. (a) Notwithstanding Section 53077.5, the Board of Supervisors of the County of Orange and the city council or councils of any city or cities in that county may, by ordinance, require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares.

(b) The local ordinance may require payment of fees pursuant to this section if:

(1) The ordinance refers to the circulation element of the general plan and, in the case of bridges, to the transportation provisions or flood control provisions of the general plan which identify railways, freeways, streams, or canyons for which bridge crossings are required on the general plan or local roads, and in the case of major thoroughfares, to the provisions of the circulation element which identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to or which is part of the state highway system, and the circulation element, transportation provisions, or flood control provisions have been adopted by the local agency 30 days prior to the filing of a map or

application for a building permit. Bridges which are part of a major thoroughfare need not be separately identified in the transportation or flood control provisions of the general plan.

(2) The ordinance provides that there will be a public hearing held by the governing body for each area benefited. Notice shall be given pursuant to Section 65905. In addition to the requirements of Section 65905, the notice shall contain preliminary information related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment. The area of benefit may include land or improvements in addition to the land or improvements which are the subject of any map or building permit application considered at the proceedings.

(3) The ordinance provides that at the public hearing, the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment are established. The method of fee apportionment, in the case of major thoroughfares, shall not provide for higher fees on land which abuts the proposed improvement except where the abutting property is provided direct usable access to the major thoroughfare. A description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing shall be incorporated in a resolution of the governing body, a certified copy of which shall be recorded by the governing body conducting the hearing with the recorder of the county in which the area of benefit is located. The resolution may subsequently be modified in any respect by the governing body. Modifications shall be adopted in the same manner as the original resolution. Any modification shall be subject to the protest procedures prescribed by paragraph (6). The resolution may provide for automatic periodic adjustment of fees based upon the California Construction Cost Index prepared and published by the Department of Transportation, without further action of the governing body, including, but not limited to, public notice or hearing. The apportioned fees shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of a final map or as a condition of issuing a building permit for any of the property or portions of the property. Where the area of benefit includes lands not subject to the payment of fees pursuant to this section, the governing body shall make provision for payment of the share of improvement costs apportioned to those lands from other sources, but those sources need not be identified at the time of the adoption of the resolution.

(4) The ordinance provides that payment of fees shall not be required unless the major thoroughfares are in addition to, or a reconstruction or widening of, any existing major thoroughfares serving the area at the time of the adoption of the boundaries of the area of benefit.

(5) The ordinance provides that payment of fees shall not be required unless the planned bridge facility is an original bridge

serving the area or an addition to any existing bridge facility serving the area at the time of the adoption of the boundaries of the area of benefit. Fees imposed pursuant to this section shall not be expended to reimburse the cost of existing bridge facility construction, unless these costs are incurred in connection with the construction of an addition to an existing bridge for which fees may be required.

(6) The ordinance provides that if, within the time when protests may be filed under its provisions, there is a written protest, filed with the clerk of the legislative body, by the owners of more than one-half of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of that to be benefited, then the proposed proceedings shall be abandoned, and the legislative body shall not, for one year from the filing of that written protest, commence or carry on any proceedings for the same improvement or acquisition under this section, unless the protests are overruled by an affirmative vote of four-fifths of the legislative body.

Nothing in this section shall preclude the processing and recordation of maps in accordance with other provisions of this division if proceedings are abandoned.

Any protests may be withdrawn in writing by the owner who filed the protest, at any time prior to the conclusion of a public hearing held pursuant to the ordinance.

If any majority protest is directed against only a portion of the improvement then all further proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year, but the legislative body shall not be barred from commencing new proceedings not including any part of the improvement or acquisition so protested against. Nothing in this section shall prohibit the legislative body, within the one-year period, from commencing and carrying on new proceedings for the construction of a portion of the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with that portion of the improvement or acquisition.

(c) Fees paid pursuant to an ordinance adopted pursuant to this section shall be deposited in a planned bridge facility or major thoroughfare fund. A fund shall be established for each planned bridge facility project or each planned major thoroughfare project. If the benefit area is one in which more than one bridge or major thoroughfare is required to be constructed, a fund may be so established covering all of the bridge or major thoroughfare projects in the benefit area. Moneys in the fund shall be expended solely for the construction or reimbursement for construction of the improvement serving the area to be benefited and from which the fees comprising the fund were collected, or to reimburse the county or a city for the cost of constructing the improvement.

(d) An ordinance adopted pursuant to this section may provide

for the acceptance of considerations in lieu of the payment of fees.

(e) The county or a city imposing fees pursuant to this section may advance money from its general fund or road fund to pay the cost of constructing the improvements and may reimburse the general fund or road fund from planned bridge facilities or major thoroughfares funds established to finance the construction of the improvements.

(f) The county or a city imposing fees pursuant to this section may incur an interest-bearing indebtedness for the construction of bridge facilities or major thoroughfares, and may enter into joint exercise of powers agreements with other local agencies imposing fees pursuant to this section, for the purpose of, among others, jointly exercising as a duly authorized original power established by this section, in addition to those through a joint exercise of powers agreement, those powers authorized in Chapter 5 (commencing with Section 31100) of Division 17 of the Streets and Highways Code for the purpose of constructing bridge facilities and major thoroughfares in lieu of a tunnel and appurtenant facilities, and, notwithstanding Section 31200 of the Streets and Highways Code, may acquire by dedication, gift, purchase, or eminent domain, any franchise, rights, privileges, easements, or other interest in property, either real or personal, necessary therefor on segments of the state highway system, including, but not limited to, those segments of the state highway system eligible for federal participation pursuant to Title 23 of the United States Code.

An entity constructing bridge facilities and major thoroughfares pursuant to this section shall design and construct the bridge facilities and major thoroughfares to the standards and specifications of the Department of Transportation then in effect, and may, at any time, transfer all or a portion of the bridge facilities and major thoroughfares to the state subject to the terms and conditions as shall be satisfactory to the Director of the Department of Transportation. Any of these bridge facilities and major thoroughfares shall be designated as a portion of the state highway system prior to its transfer. The sole security for repayment of the indebtedness shall be moneys in planned bridge facilities or major thoroughfares funds. The participants in a joint exercise of powers agreement may also exercise as a duly authorized original power established by this section the power to establish and collect toll charges only for paying for the costs of construction of the major thoroughfare for which the toll is charged and for the costs of collecting the tolls. Major thoroughfares from which tolls are charged shall utilize the toll collection equipment most capable of moving vehicles expeditiously and efficiently, best suited for that purpose as determined by the participants in the joint exercise of powers agreement. However, in no event shall the powers authorized in Chapter 5 (commencing with Section 31100) of Division 17 of the Streets and Highways Code be exercised unless a resolution is first adopted by the legislative body of the agency finding that adequate funding for the portion of

the cost of constructing those bridge facilities and major thoroughfares not funded by the development fees collected by the agency is not available from any federal, state, or other source. Any major thoroughfare constructed and operated as a toll road pursuant to this section shall only be constructed parallel to other public thoroughfares and highways.

(g) The term "construction," as used in this section, includes design, acquisition of rights-of-way, and actual construction, including, but not limited to, all direct and indirect environmental, engineering, accounting, legal, administration of construction contracts, and other services necessary therefor. The term "construction" also includes reasonable general agency administrative expenses, not exceeding three hundred thousand dollars ($300,000) in any calendar year after January 1, 1986, as adjusted annually for any increase or decrease in the Consumer Price Index of the Bureau of Labor Statistics of the United States Department of Labor for all Urban Consumers, Los Angeles-Long Beach-Anaheim, California (1967=100), as published by the United States Department of Commerce, by each agency created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 for the purpose of constructing bridges and major thoroughfares. "General agency administrative expenses" means those office, personnel, and other customary and normal expenses associated with the direct management and administration of the agency, but not including costs of construction.

(h) Nothing in this section shall be construed to preclude the County of Orange or any city within that county from providing funds for the construction of bridge facilities or major thoroughfares to defray costs not allocated to the area of benefit.

(i) Any city within the County of Orange may require the payment of fees in accordance with this section as to any property in an area of benefit within the city's boundaries, for facilities shown on its general plan or the county's general plan, whether the facilities are situated within or outside the boundaries of the city, and the county may expend fees for facilities or portions thereof located within cities in the county.

(j) The validity of any fee required pursuant to this section shall not be contested in any action or proceeding unless commenced within 60 days after recordation of the resolution described in paragraph (3) of subdivision (b). The provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure shall be applicable to any such action or proceeding. This subdivision shall also apply to modifications of fee programs.

SEC. 4. Section 66484.3 of the Government Code, as amended by Section 1 of Senate Bill 1074, is amended to read:

66484.3. (a) Notwithstanding Section 53077.5, the Board of Supervisors of the County of Orange and the city council or councils of any city or cities in that county may, by ordinance, require the payment of a fee as a condition of approval of a final map or as a

condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares.

(b) The local ordinance may require payment of fees pursuant to this section if:

(1) The ordinance refers to the circulation element of the general plan and, in the case of bridges, to the transportation provisions or flood control provisions of the general plan which identify railways, freeways, streams, or canyons for which bridge crossings are required on the general plan or local roads, and in the case of major thoroughfares, to the provisions of the circulation element which identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to or which is part of the state highway system, and the circulation element, transportation provisions, or flood control provisions have been adopted by the local agency 30 days prior to the filing of a map or application for a building permit. Bridges which are part of a major thoroughfare need not be separately identified in the transportation or flood control provisions of the general plan.

(2) The ordinance provides that there will be a public hearing held by the governing body for each area benefited. Notice shall be given pursuant to Section 65905. In addition to the requirements of Section 65905, the notice shall contain preliminary information related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment. The area of benefit may include land or improvements in addition to the land or improvements which are the subject of any map or building permit application considered at the proceedings.

(3) The ordinance provides that at the public hearing, the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment are established. The method of fee apportionment, in the case of major thoroughfares, shall not provide for higher fees on land which abuts the proposed improvement except where the abutting property is provided direct usable access to the major thoroughfare. A description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing shall be incorporated in a resolution of the governing body, a certified copy of which shall be recorded by the governing body conducting the hearing with the recorder of the County of Orange. The resolution may subsequently be modified in any respect by the governing body. Modifications shall be adopted in the same manner as the original resolution. Any modification shall be subject to the protest procedures prescribed by paragraph (6). The resolution may provide for automatic periodic adjustment of fees based upon the California Construction Cost Index prepared and published by the Department of Transportation, without further action of the

governing body, including, but not limited to, public notice or hearing. The apportioned fees shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of a final map or as a condition of issuing a building permit for any of the property or portions of the property. Where the area of benefit includes lands not subject to the payment of fees pursuant to this section, the governing body shall make provision for payment of the share of improvement costs apportioned to those lands from other sources, but those sources need not be identified at the time of the adoption of the resolution.

(4) The ordinance provides that payment of fees shall not be required unless the major thoroughfares are in addition to, or a reconstruction or widening of, any existing major thoroughfares serving the area at the time of the adoption of the boundaries of the area of benefit.

(5) The ordinance provides that payment of fees shall not be required unless the planned bridge facility is an original bridge serving the area or an addition to any existing bridge facility serving the area at the time of the adoption of the boundaries of the area of benefit. Fees imposed pursuant to this section shall not be expended to reimburse the cost of existing bridge facility construction, unless these costs are incurred in connection with the construction of an addition to an existing bridge for which fees may be required.

(6) The ordinance provides that if, within the time when protests may be filed under its provisions, there is a written protest, filed with the clerk of the legislative body, by the owners of more than one-half of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of that to be benefited, then the proposed proceedings shall be abandoned, and the legislative body shall not, for one year from the filing of that written protest, commence or carry on any proceedings for the same improvement or acquisition under this section, unless the protests are overruled by an affirmative vote of four-fifths of the legislative body.

Nothing in this section shall preclude the processing and recordation of maps in accordance with other provisions of this division if proceedings are abandoned.

Any protests may be withdrawn in writing by the owner who filed the protest, at any time prior to the conclusion of a public hearing held pursuant to the ordinance.

If any majority protest is directed against only a portion of the improvement then all further proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year, but the legislative body shall not be barred from commencing new proceedings not including any part of the improvement or acquisition so protested against. Nothing in this section shall prohibit the legislative body, within the one-year period, from commencing and carrying on new proceedings for the construction of a portion of

the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with that portion of the improvement or acquisition.

(c) Fees paid pursuant to an ordinance adopted pursuant to this section shall be deposited in a planned bridge facility or major thoroughfare fund. A fund shall be established for each planned bridge facility project or each planned major thoroughfare project. If the benefit area is one in which more than one bridge or major thoroughfare is required to be constructed, a fund may be so established covering all of the bridge or major thoroughfare projects in the benefit area. Moneys in the fund shall be expended solely for the construction or reimbursement for construction of the improvement serving the area to be benefited and from which the fees comprising the fund were collected, or to reimburse the county or a city for the cost of constructing the improvement.

(d) An ordinance adopted pursuant to this section may provide for the acceptance of considerations in lieu of the payment of fees.

(e) The county or a city imposing fees pursuant to this section may advance money from its general fund or road fund to pay the cost of constructing the improvements and may reimburse the general fund or road fund from planned bridge facilities or major thoroughfares funds established to finance the construction of the improvements.

(f) The county or a city imposing fees pursuant to this section may incur an interest-bearing indebtedness for the construction of bridge facilities or major thoroughfares, and may enter into joint exercise of powers agreements with other local agencies imposing fees pursuant to this section, for the purpose of, among others, jointly exercising as a duly authorized original power established by this section, in addition to those through a joint exercise of powers agreement, those powers authorized in Chapter 5 (commencing with Section 31100) of Division 17 of the Streets and Highways Code for the purpose of constructing bridge facilities and major thoroughfares in lieu of a tunnel and appurtenant facilities, and, notwithstanding Section 31200 of the Streets and Highways Code, may acquire by dedication, gift, purchase, or eminent domain, any franchise, rights, privileges, easements, or other interest in property, either real or personal, necessary therefor on segments of the state highway system, including, but not limited to, those segments of the state highway system eligible for federal participation pursuant to Title 23 of the United States Code.

An entity constructing bridge facilities and major thoroughfares pursuant to this section shall design and construct the bridge facilities and major thoroughfares to the standards and specifications of the Department of Transportation then in effect, and may, at any time, transfer all or a portion of the bridge facilities and major thoroughfares to the state subject to the terms and conditions as shall be satisfactory to the Director of the Department of Transportation.

Any of these bridge facilities and major thoroughfares shall be designated as a portion of the state highway system prior to its transfer. The sole security for repayment of the indebtedness shall be moneys in planned bridge facilities or major thoroughfares funds. The participants in a joint exercise of powers agreement may also exercise as a duly authorized original power established by this section the power to establish and collect toll charges only for paying for the costs of construction of the major thoroughfare for which the toll is charged and for the costs of collecting the tolls. Major thoroughfares from which tolls are charged shall utilize the toll collection equipment most capable of moving vehicles expeditiously and efficiently, best suited for that purpose as determined by the participants in the joint exercise of powers agreement. However, in no event shall the powers authorized in Chapter 5 (commencing with Section 31100) of Division 17 of the Streets and Highways Code be exercised unless a resolution is first adopted by the legislative body of the agency finding that adequate funding for the portion of the cost of constructing those bridge facilities and major thoroughfares not funded by the development fees collected by the agency is not available from any federal, state, or other source. Any major thoroughfare constructed and operated as a toll road pursuant to this section shall only be constructed parallel to other public thoroughfares and highways.

(g) The term "construction," as used in this section, includes design, acquisition of rights-of-way, and actual construction, including, but not limited to, all direct and indirect environmental, engineering, accounting, legal, administration of construction contracts, and other services necessary therefor. The term "construction" also includes reasonable general agency administrative expenses, not exceeding three hundred thousand dollars ($300,000) in any calendar year after January 1, 1986, as adjusted annually for any increase or decrease in the Consumer Price Index of the Bureau of Labor Statistics of the United States Department of Labor for all Urban Consumers, Los Angeles-Long Beach-Anaheim, California (1967=100), as published by the United States Department of Commerce, by each agency created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 for the purpose of constructing bridges and major thoroughfares. "General agency administrative expenses" means those office, personnel, and other customary and normal expenses associated with the direct management and administration of the agency, but not including costs of construction.

(h) Nothing in this section shall be construed to preclude the County of Orange or any city within that county from providing funds for the construction of bridge facilities or major thoroughfares to defray costs not allocated to the area of benefit.

(i) Any city within the County of Orange may require the payment of fees in accordance with this section as to any property in an area of benefit within the city's boundaries, for facilities shown

on its general plan or the county's general plan, whether the facilities are situated within or outside the boundaries of the city, and the county may expend fees for facilities or portions thereof located within cities in the county.

(j) The validity of any fee required pursuant to this section shall not be contested in any action or proceeding unless commenced within 60 days after recordation of the resolution described in paragraph (3) of subdivision (b). The provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure shall be applicable to any such action or proceeding. This subdivision shall also apply to modifications of fee programs.

(k) If the County of Orange and any city within that county have entered into a joint powers agreement for the purpose of constructing the bridges and major thoroughfares referred to in Sections 50029 and 66484.3, and if a proposed change of organization or reorganization includes any territory of an area of benefit established pursuant to Sections 50029 and 66484.3, within a successor local agency, the local agency shall not take any action that would impair, delay, frustrate, obstruct, or otherwise impede the construction of the bridges and major thoroughfares referred to in this section.

SEC. 5. (a) Section 2 of this bill incorporates amendments to Section 66484.3 of the Government Code proposed by both this bill and SB 1073. It shall only become operative if (1) both bills are enacted and become effective January 1, 1988, (2) each bill amends Section 66484.3 of the Government Code, and (3) SB 1074 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1073, 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 66484.3 of the Government Code proposed by both this bill and SB 1074. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1988, (2) each bill amends Section 66484.3 of the Government Code, (3) SB 1073 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1074 in which case Section 66484.3 of the Government Code, as amended by SB 1074 shall remain operative only until the operative date of this bill at which time Section 3 of this bill shall become operative, and Sections 1, 2, and 4 of this bill shall not become operative.

(c) Section 4 of this bill incorporates amendments to Section 66484.3 of the Government Code proposed by this bill, SB 1073, and SB 1074. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1988, (2) all three bills amend Section 66484.3 of the Government Code, and (3) this bill is enacted after SB 1073 and SB 1074, in which case Section 66484.3 of the Government Code, as amended by SB 1074 shall remain operative only until the operative date of this bill at which time Section 4 of this bill shall become operative, and Sections 1, 2, and 3 of this bill shall not become operative.

CHAPTER 1403

An act to amend Sections 6546, 6547, and 6571 of the Government Code, relating to subdivisions.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987.]

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

SECTION 1. Section 6546 of the Government Code is amended to read:

6546. In addition to other powers, any agency, commission, or board provided for by a joint powers agreement pursuant to Article 1 (commencing with Section 6500) may issue revenue bonds pursuant to this article to pay the cost and expenses of acquiring or constructing a project for any or all of the following purposes:

(a) An exhibition building or other place for holding fairs or exhibitions for the display of agricultural, livestock, industrial, or other products, including movable equipment, entertainment facilities, and other facilities to be used in conjunction with holding a fair or exposition in several locations.

(b) A coliseum, a stadium, a sports arena or sports pavilion or other building for holding sports events, athletic contests, contests of skill, exhibitions, spectacles, and other public meetings.

(c) Any other public buildings, including, but not limited to, general administrative facilities of a city, county, city and county, special district, or authority.

(d) A regional or local public park, recreational area, or recreational center, and all facilities and improvements related thereto.

(e) A facility for the generation or transmission of electrical energy for public or private uses and all rights, properties, and improvements necessary therefor, including fuel and water facilities and resources. As used in this chapter, "transmission of electric energy" does not include the final distribution of electric energy to the consumer.

(f) A facility for the disposal, treatment, or conversion to energy and reusable materials of solid or hazardous waste or toxic substances.

(g) Facilities for the production, storage, transmission, or treatment of water or wastewater.

(h) Local streets, roads, and bridges.

(i) Bridges and major thoroughfares construction pursuant to Sections 50029 and 66484.3.

(j) Mass transit facilities or vehicles.

(k) Publicly owned or operated commercial or general aviation airports and airport-related facilities.

(*l*) Police or fire stations.

(m) Public works facilities, including corporation yards.

(n) Public health facilities owned or operated by a city, county, city and county, special district, or authority.

(o) Criminal justice facilities, including court buildings, jails, juvenile halls, and juvenile detention facilities.

(p) Public libraries.

(q) Publicly owned or operated parking garages.

(r) Low-income housing projects owned or operated by a city, county, city and county, or housing authority.

(s) Public improvements authorized in a project area created pursuant to the Community Redevelopment Law, Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code.

(t) Public improvements authorized pursuant to the Improvement Act of 1911, Division 7 (commencing with Section 5000) of the Streets and Highways Code, the Improvement Bond Act of 1915, Division 10 (commencing with Section 8500) of the Streets and Highways Code, the Municipal Improvement Act of 1913, Division 12 (commencing with Section 10000) of the Streets and Highways Code, and the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5.

(u) Equipment necessary to support the above-listed facilities or necessary to deliver public services therefrom, including, but not limited to, telecommunications equipment, computers, and service vehicles.

Bonds may be issued pursuant to this article if the joint powers entity, or its individual parties which contract pursuant to Section 6547.5, 6547.6, or 6547.7 to make payments to be applied to the payment of the indebtedness, have the power to acquire, construct, maintain, or operate one or more of the projects specified in this section.

SEC. 2. Section 6547 of the Government Code is amended to read:

6547. The power of the entity to issue revenue bonds is additional to the powers common to the parties to the joint powers agreement, but shall not be exercised until authorized by the parties to that agreement. However, in the case of the issuance of revenue bonds by a fair and exhibition authority this authorization shall not be required. In the case of the issuance of revenue bonds by an entity created pursuant to this chapter to construct bridges and major thoroughfares, as referred to in Section 66484.3, the power of the entity to issue revenue bonds shall be exercised by a resolution adopted by a majority vote of the governing body of the entity. However, no member of the entity may vote on the question of bond issuance unless the member has been authorized to vote on that

particular question by previous resolution of the public agency the member represents. In the case of a project for the generation or transmission of electric energy or a project for the disposal, treatment, or conversion to energy and reusable materials of solid waste, or a project for an intermodal container transfer facility, or a project for the construction of bridges and major thoroughfares pursuant to Section 66484.3, this power shall include the power to issue notes for the purpose of financing studies, the acquisition of options, permits, and other preliminary costs to be incurred prior to the undertaking of the construction or acquisition of a project, and for the purpose of providing temporary financing of costs of construction or acquisition of a project. These notes may be issued at public or private sale, and may be renewed from time to time, and the principal and interest with respect thereto may be made payable from the revenues of the entity unless paid from the proceeds of revenue bonds.

Every local agency shall make any authorization, as permitted under the first sentence of this section, by ordinance, unless otherwise prescribed in this section. Except as provided in this section, the ordinance shall describe in general terms the project, or projects, to be funded by the revenue bonds, the maximum amount of the bonds proposed to be issued, and the anticipated sources of revenue to redeem the bonds. In the case of a project for the generation or transmission of electric energy or a project for the disposal, treatment, or conversion to energy and reusable materials of solid waste, or a project for an intermodal container transfer facility, or a project for the construction of bridges and major thoroughfares pursuant to Section 66484.3, the ordinance shall describe in general terms the project or the studies or other preliminary costs therefor to be funded by the revenue bonds or notes, the estimate of the maximum amount of bonds to be issued for the project or the studies or other preliminary costs, and the anticipated sources of revenue or other funds to pay the principal of and interest on the bonds or notes. However, the statement of the estimated maximum amount of the bonds or notes shall not be deemed to prevent the authorization by the ordinance of the issuance of bonds or notes by the entity in amounts which may exceed the estimate without further authorization under the ordinance if and to the extent the additional bonds or notes shall be required to complete the financing of the project or the studies or other preliminary costs. Each such ordinance shall state that it is subject to the provisions for referendum prescribed by Section 3751.7 of the Elections Code.

A separate authorization shall be required for each separate bond issue proposed by the entity, except that, in the case of a project for the generation or transmission of electric energy or a project for the disposal, treatment, or conversion to energy and reusable materials of solid waste, or a project for an intermodal container transfer facility, or a project for the construction of bridges and major

thoroughfares pursuant to Section 66484.3, a single authorization shall be sufficient for bonds which may be issued in installments from time to time for a project or the costs of studies or other preliminary costs therefor which shall be identified in the authorization.

The requirement of an ordinance and the right to referendum thereon shall not apply to the issuance of revenue bonds if, prior to March 4, 1971, one or more local or public agencies shall have taken formal action to implement any one or more projects to be acquired or constructed pursuant to a joint powers agreement. Formal action to implement any one or more projects shall include, but not be limited to, any of the following:

(a) The incurring of liability for a substantial portion of an architectural or engineering contract or other contract relating to a project.

(b) The acquisition of land or improvements for the project.

(c) The making of a substantial contribution toward the project.

Notwithstanding the requirement that parties to a joint powers agreement authorize the issuance of revenue bonds, in the case of a project which consists of the generation or transmission of electric energy financed in whole or in part by the issuance of revenue bonds, only those local agencies which contract to make payments to be applied to the payment of the revenue bonds shall be required to authorize the issuance of the revenue bonds.

Any authorizations required by this section for the issuance of revenue bonds to construct bridges and major thoroughfares projects pursuant to Section 50029 or 66484.3 may be by ordinance or resolution.

SEC. 3. Section 6571 of the Government Code, as amended by Section 3 of Chapter 914 of the Statutes of 1983, is amended to read:

6571. The bonds shall be issued and sold as the governing body may determine and for not less than par and accrued interest to date of delivery, except that, in the case of a project for the generation or transmission of electric energy, a project for the disposal, treatment, or conversion of energy and reusable materials of solid waste, or a project for a purpose specified in Section 6546.6, or a project for the construction of bridges and major thoroughfares pursuant to Section 66484.3, or a project for an intermodal container transfer facility specified in Section 6546.6, or in the case of bonds of a fair and exhibition authority, the bonds may be sold at less than par if the governing body shall determine that such a sale will result in more favorable terms for the bonds. The sale shall be conducted in compliance with Chapter 10 (commencing with Section 5800) of Division 6 of Title 1, unless, in the case of a project for the generation or transmission of electric energy, a project for the disposal, treatment, or conversion of energy and reusable materials of solid waste, a project for the development and construction of an intermodal container transfer facility specified in Section 6546.6, or a project for the construction of bridges and major thoroughfares pursuant to Section 66484.3, or in the case of bonds of a fair and

exhibition authority, the governing body shall determine that a negotiated sale of the bonds is necessary, in which case the bonds shall be sold on such terms as shall be approved by the governing body.

The proceeds from the sale (except premium and accrued interest, which shall be paid into the bond service or other fund designated or established for the payment of the principal and interest of the bonds) shall be paid into the construction fund or other fund designated by the indenture authorizing the issuance of the bonds and shall be applied exclusively to the objects and purposes set forth in the indenture, including all expenses incidental thereto or in connection therewith, and also including the payment of interest on the bonds during the period of study and construction of the project and for a period not to exceed 12 months after completion of the construction.

CHAPTER 1404

An act to repeal and add Chapter 1 (commencing with Section 29000) of Division 13 of, and to repeal Section 29030 of, the Food and Agricultural Code, relating to bees.

[Approved by Governor September 29, 1987 Filed with Secretary of State September 29, 1987]

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

SECTION 1. Chapter 1 (commencing with Section 29000) of Division 13 of the Food and Agricultural Code is repealed.

SEC. 2. Chapter 1 (commencing with Section 29000) is added to Division 13 of the Food and Agricultural Code, to read:

CHAPTER 1. BEES

Article 1. General Provisions

29000. The Legislature hereby finds and declares that:

A healthy and vibrant apiary industry is important to the economy and welfare of the people of the State of California. Protection and promotion of this important industry is in the interest of the people of the State of California.

29001. This chapter shall be known and may be cited as, the "Apiary Protection Act." Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

29002. "Apiary" includes bees, comb, hives, appliances, or colonies, wherever they are kept, located, or found.

29003. "Appliance" means any implement or other device which is used in handling and manipulating bees or comb, any container of

bees or comb, or any other equipment which is used in the practice of apiculture.

29004. "Bees" means honey-producing insects of the genus Apis. It includes all life stages of these insects.

29005. "Board" means the Apiary Board.

29006. "Colony" means one hive and its contents, including bees, comb, and appliances.

29007. "Comb" includes all materials which are normally deposited into hives by bees. It does not include extracted honey or royal jelly, trapped pollen, and processed beeswax.

29008. "Commissioner" means a county agricultural commissioner.

29009. "Pest" means American foulbrood or any other infectious disease, parasite, pest, or hereditary disease that affects bees which the director by regulations declares is detrimental to the welfare of the bee industry.

29010. "Infected," "infested," "contaminated," or "diseased" means that a viable stage of a life cycle of a "pest" as defined in Section 29009 can be demonstrated to exist on or within the colony population or on hives, comb, or any appliances associated with beekeeping operations.

29011. "Hive" means any receptacle or container, or part of any receptacle or container, which is made or prepared for the use of bees, or which is inhabited by bees.

29012. "Inspector" means any person who is authorized to enforce this chapter.

29013. "Location" means any premises upon which an apiary is located.

Article 2. Apiary Board

29020. There is in the department the Apiary Board, consisting of five members appointed by the director. The members of the board shall be assessment-paying beekeepers who reside in California and who represent the major geographical divisions of the beekeeping industry. The director may appoint an additional member on the board who shall be a public member.

29021. Upon the director's request, the board shall submit to the director the names of three or more natural persons, each of whom shall be a citizen and resident of this state and not a producer, shipper, distributor, packer, or processor, nor financially interested in any of those entities, for appointment by the director as a public member of the board. The director may appoint one of the nominees as the public member on the board. If all nominees are unsatisfactory to the director, the board shall continue to submit lists of nominees until the director has made a selection. Any vacancy in the office of the public member of the board shall be filled by appointment by the director from the nominee or nominees similarly qualified submitted by the board. The public member of the board shall represent the

interests of the general public in all matters coming before the board and shall have the same voting and other rights and immunities as other members of the board.

29022. It is hereby declared, as a matter of legislative determination, that beekeepers appointed to the board are intended to represent and further the interest of a particular agricultural industry concerned, and that the representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to the board, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

29023. In making his or her selection of the membership of the board, the director shall take into consideration the recommendations of the beekeeping industry, including, but not limited to, the California State Beekeeper's Association.

29024. The term of office of the members of the board is four years. Appointments shall be for full four-year terms. The director shall solicit the views of the industry, including, but not limited to, the California State Beekeeper's Association before allowing any member to serve as a member of the board; however, no person shall serve successive terms as a member of the board.

29025. The director may appoint a department representative as the secretary to the board.

29026. The board shall be advisory to the director on all matters related to the beekeeping industry and may make recommendations on all matters affecting the activities of the department in relation to the beekeeping industry including an annual review of the department's apiary program.

29027. The board shall meet at the call of the director or at the request of any three members of the board. It shall meet at least once a year.

29028. Each member of the board shall serve without compensation, but each member shall be reimbursed for actual and necessary expenses, including travel expenses, incurred in attending meetings of the board and any other official duty authorized by the board and approved by the director. The reimbursements shall be made in accordance with the rules of the State Board of Control.

Article 3. Apiary Assessments

29030. (a) The beekeeper, apiary owner, apiary operator, or the person in possession of any apiary shall pay to the director an annual assessment fee not to exceed thirty-five cents ($0.35) per colony as determined by the director, after consultation with the board, and input from the industry, to be necessary to carry out this article. However, the fee shall only be paid once each year by any one of these persons. For colonies imported into the state, the fee shall be collected at the time the colonies are received in the state.

(b) Beekeepers, apiary owners, apiary operators, or persons in possession of any apiary are exempt from the assessments required under this section if they own and operate less than 40 colonies.

(c) The department shall, from money available for the purpose in this subdivision, match any funds raised by the assessments imposed under this section and deposit those matching funds in the Department of Food and Agriculture Fund for the purposes stated in Section 29032.

(d) This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1989, deletes or extends that date.

29030.5. The beekeeper, apiary owner, apiary operator, or the person in possession of an apiary, in addition to the annual assessment fee prescribed by subdivision (a) of Section 29030, shall pay to the director an annual assessment fee of three cents ($0.03) per colony for the purpose of research on Africanized bees. The fee shall be annually collected until July 1, 1992, and the revenue, notwithstanding Section 13340 of the Government Code, is continuously appropriated for that research.

Subdivision (c) of Section 29030 and Section 29032 does not apply to the disposition of funds authorized by this section.

29031. The assessment fees shall be payable to the director on July 1 of each year. The director shall send a written notice of the nonpayment of the required assessment fee to any person who fails to pay the assessment fee on that date. If the total amount of the assessment fee is not paid within 31 days after receipt of the written notice from the director, the person shall be required to pay, in addition to his or her regular fee, a penalty fee equal to 10 percent of the amount of the assessment fee prescribed pursuant to Section 29030, plus interest from that date. The interest shall accrue on a daily basis until the amount owed is paid.

29032. (a) Any funds collected by the director pursuant to this article shall be deposited in the Department of Food and Agriculture Fund to be used for the control of pests, and research related to the bee industry, as advised by the board and approved by the director, and to carry out Article 2 (commencing with Section 29020).

(b) The director shall pay by contract entered into pursuant to this section, five-eighths of the funds received from apiary assessments to the counties as reimbursement for costs incurred by the commissioner in the administration and enforcement of this chapter. The payment shall be apportioned to the commissioner in relation to each county's expenditure for the administration and enforcement of the chapter. The director, after consulting with the board, shall establish standards of performance for administration and enforcement. The director shall make the payments to each county only if the commissioner acts in compliance with a contract entered into between the director and the commissioner.

Article 4. Registration and Identification of Apiaries

29040. Every person that is the owner or is in possession of an apiary which is located within the state, on the first day of January of each year, shall register the number of colonies in each apiary which is owned by the person and the location of each apiary. Every person required to register under this article, shall do so on the first day of January of each year in which they maintain, possess, or are in possession of an apiary, or within 30 days thereafter, as prescribed in this article.

29041. Notwithstanding the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), any information provided in accordance with this article or Section 29070 shall be held confidential, and shall not be disclosed to any person or governmental agency, other than the department or a county department of agriculture. The information shall also be considered privileged under the provisions of Sections 1040 and 1060 of the Evidence Code, with the exception of the location of apiaries for disclosure to pesticide applicators pursuant to Section 29101.

29042. Every person who moves bees into the state or otherwise comes into possession of an apiary that is located within the state after the first day of January, shall register the number of colonies moved into the state or so acquired within 30 days after coming into possession of the apiary.

29043. Registration of an apiary shall be filed with the commissioner of the county in which the apiary is located, or with the director if there is no commissioner in the county. The director shall adopt a form of registration to be used statewide, which shall include a request for notification of use of pesticide in accordance with Section 29101. All commissioners shall use the same form.

29044. Each beekeeper, apiary owner, apiary operator, or person in possession of any apiary, shall pay, in addition to any other fees imposed under this chapter, an annual registration fee of ten dollars ($10.00) to the commissioner of the county where the bees reside on January 1, to cover the cost of apiary registration. The director shall by regulation adopt and periodically update a schedule of the fees, which shall include late fees for anyone who fails to register an apiary under provisions of Sections 29041 and 29042.

29045. No person shall maintain any apiary which is not registered pursuant to this article. Each registration is valid until January 1 of the following year.

29046. (a) No person shall maintain an apiary on premises other than that of his or her residence unless the apiary is identified as follows:

(1) By a sign that is prominently displayed on the entrance side of the apiary or stenciled on the hive, that states in dark letters not less than one inch in height on a background of contrasting color, the name of the owner or person responsible for the apiary, his or her

address and telephone number, or if he or she has no telephone, a statement to that effect.

(2) If the governing body of the county or city in which the apiary is located has provided by ordinance for the identification of apiaries, in the manner which is prescribed in the ordinance.

(b) No person shall locate or maintain an apiary on private land not owned or leased by the person unless the person has approval from the owner of record, or an authorized agent thereof, and can establish approval upon demand of the director or commissioner. The approval shall include the name and phone number of the person granting approval.

(c) (1) No person shall locate or maintain an apiary on any public land without the expressed oral or written approval of the entity which owns, leases, controls, or occupies the land, and can establish this approval upon demand of the director or the commissioner. The approval shall include the name and telephone number of the person granting the approval. During the citrus bloom period, as established by the commissioner, including 72 hours prior to the declaration of the bloom period until 48 hours after the conclusion of the bloom period, the apiary operator shall obtain written permission to place bees on public land, and shall make it available to the director or the commissioner upon demand. Any apiary located or maintained on public land without lawful consent is a public nuisance and may be subject to seizure by the director or the commissioner.

(2) The director or commissioner may commence proceedings in the superior court of the county or city and county in which the seizure is made petitioning the court for judgment forfeiting the apiary. 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, if the person owning the apiary is unknown, 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 apiary was located or maintained on public lands without approval of the entity, may order the apiary forfeited. Any apiary so forfeited shall be sold or destroyed by the director or the commissioner. The proceeds from all sales shall be used in accordance with Section 29032.

29047. Any person who owns or is in possession of an apiary may bring an action to recover damages for any injury to his or her apiary by reason of any pest control operation if the person has complied with Sections 29070, 29043, and 29046, and with regulations adopted by the director providing for the protection of bees under Sections 11502, 14005, and 29080 when these requirements apply to the property where the alleged damage has occurred.

29048. Any pesticide applicator who experiences any loss because of a beekeeper's failure to request notification of a pesticide application pursuant to Section 29070, or pursuant to any department rule or regulation, or who experiences any loss because of a

beekeeper's failure to register bees pursuant to Section 29041 or 29042, may bring an action for the recovery of damages against that beekeeper.

29049. The owner of any apiary equipment may apply to the director for a serial number brand for use on apiary equipment which he or she owns. The application shall contain the name and address of the applicant and shall be accompanied by a fee, as established and periodically updated, by the director by regulation.

29050. Upon receipt of the application and fee, the director shall register a serial number brand to the applicant. The serial number shall include a county number followed by an individual number. The county number shall be and remain the same as the number of the class of the county in the classification which was adopted by the Legislature in 1931. As to counties with classification numbers 1 to 9, inclusive, the county number shall be preceded by a dash (-). The county number shall be followed by a dash (-) and the individual number.

29051. If a serial number brand is used on wooden equipment, it shall be burned into the wood in numbers which are at least one-half inch in height. Hive bodies shall be branded on the upper left-hand corner. Frames shall be branded or stenciled on top bars. Other wooden equipment may be branded in any manner desired.

29052. Serial number brands are transferrable.

29053. (a) If the purchaser does not have a registered brand number, he or she may use a brand acquired by purchase if a bill of sale on the purchased brand number is forwarded by registered mail to the director accompanied by a transfer fee as established and periodically updated by the director by regulation.

(b) If the purchaser has a previously registered brand number, he or she may have other brand numbers transferred to his or her name, without charge, but he or she shall destroy any and all branding irons or branding devices acquired by the transfer and notify the director of the destruction.

29054. If ownership of branded equipment is transferred, the original brand shall not be defaced or obliterated. The brand, if any, of the new owner shall be placed below the original brand and as near it as possible.

29055. It is unlawful for any person to have in his or her possession any apiary equipment which is branded with any serial number brand other than his or her own unless he or she has a bill of sale which he or she obtained from the registered owner of the serial brand number.

29056. It is unlawful for any person to do any one of the following:

(a) Use any serial number brand unless it is registered pursuant to this article provided that the National Crime Identification Center (NCIC) numbers may be used.

(b) Alter, deface, remove, or obliterate the brand on any apiary equipment to prevent the identification of the equipment.

(c) Be in possession of any apiary equipment upon which the

brand has been altered, defaced, removed, or obliterated.

Article 5. Intrastate Movement

29070. (a) Any person relocating a colony of bees from a registered apiary in one county to another county, where the apiary is not registered for the current calendar year, shall notify the destination commissioner by telephone within five days of the first movement. The notification shall include all of the following:

(1) The name and address of the apiary operator or his or her designated representative.

(2) A telephone number where the apiary operator or his or her designated representative may be reached.

(b) The apiary operator or his or her designated representative shall provide locations of each colony upon request by the commissioner of any county.

(c) Subsequent movement into the destination county shall not require further notification to the commissioner if, when the apiary operator removes the last colony from the county, he or she notifies the commissioner of that final movement within 72 hours.

29070.5. (a) Any apiary operator or his or her designated representative relocating a colony of bees within a county where the apiary is currently registered is not required to notify the commissioner of the movement.

(b) The apiary operator or his or her designated representative shall provide the commissioner with all locations of colonies upon request.

29071. It is lawful for any person, except when prohibited by other provisions of this chapter, to do any of the following:

(a) Transport any contaminated hive, together with its contents, to a suitable place for burning, or to a wax salvage plant licensed under Article 11 (commencing with Section 29150), after the person has killed the bees in the hive and sealed the hive to prevent the entrance of live bees.

(b) Transport contaminated comb, including any frame associated with it, to a suitable place for burning, or to a wax salvage plant, licensed under the provisions of Article 11 (commencing with Section 29150) if the comb is tightly enclosed to prevent access to the comb by bees.

29072. No person shall move or transport any bees, comb, appliances, or colonies within the state which are diseased, except for abatement pursuant to this chapter or for research pursuant to Section 29074.

29073. The inspector, in a summary manner, may destroy where required, any and all diseased colonies, bees, combs, or hives which are unlawfully moved within the state wherever they may be found.

29074. The director by written permit, subject to conditions the director may determine are necessary to protect the beekeeping industry of this state, may authorize federal and state agencies to

transport and maintain within the state diseased bees, comb, hives, appliances, or colonies for the purpose of studying methods of eradicating and controlling bee diseases.

Article 6. Notification Regions

29080. The director may, after notice and hearing, establish regions for the notification of apiary owners relative to pesticide applications if the director determines that the notification could be effectively accomplished on a regional basis and that there would be sufficient interest among beekeepers and pest control operators to make substantial participation in a regional notification system likely. The regions may be composed of more than one county or portions of counties, but no single county or portion of a county may become an entire region.

29081. Upon the establishment of a notification region, the director shall designate one of the commissioners within the region as the coordinator for the region. The coordinator may receive, upon request, any necessary technical assistance from the University of California, other commissioners, and the department in the development of a regional notification system.

29082. The coordinator may receive money from any source and shall deposit the funds in the Department of Food and Agriculture Fund for expenditure pursuant to the purposes of this article, upon appropriation therefor by the Legislature. The director may, if he or she determines that it is necessary, establish fees for beekeepers and pest control operators who participate. The fees may, if necessary, vary for different regions but shall in no case be greater than the amount necessary to defray the expenses of that region. In the event that an unexpended surplus exists for more than two consecutive years, the surplus funds shall be transferred to the beekeeping program. If the operation of the system is suspended or terminated, any unexpended moneys shall be deposited in the Department of Food and Agriculture Fund to be used as prescribed in Section 29032.

Article 7. Use of Pesticides

29100. (a) The Legislature hereby finds and declares that bees perform a valuable service to agriculture in this state.

(b) The Legislature further finds and declares that the necessary application of certain pesticides to blossoming plants poses a potential hazard to bees.

(c) The Legislature further finds and declares that the use of pesticides is necessary for the protection of agricultural crops.

(d) The Legislature further finds and declares that certain factors, including, but not limited to, the time of application, the type of pesticides used, the type of blossoming plant involved, the proximity of the apiaries, and the ability to locate and notify the owners of the apiaries involved, directly affect the extent of the harm to bees

resulting from pesticides.

29101. (a) Each beekeeper shall report to the commissioner of the county in which his or her apiary is located on a form approved by the director, each location of apiaries for which notification of pesticide usage is sought. This report for notification may be filed with and be part of the form used for registration pursuant to Article 4 (commencing with Section 29040), or shall be thereafter submitted in writing if telephonic notice of relocation is made as set forth in Section 29070. Except for reports filed as part of an initial registration pursuant to Section 29040, each request shall be mailed within 72 hours before locating an apiary, where feasible, but in no event later than 72 hours after locating an apiary.

(b) The beekeeper shall not be entitled to notification until receipt and processing of the report is made by the commissioner. However, the commissioner may provide notice earlier if practicable.

(c) Notice to pesticide applicators shall not be required until the written report by the beekeeper has been received and processed by the commissioner, except that the commissioner may provide notice earlier if practicable.

(d) The commissioner shall process the written report as expeditiously as reasonable, but shall not exceed 16 working hours. The 16-hour period shall commence upon receipt of the written report.

29102. (a) The director shall adopt regulations necessary to minimize the hazard to bees, while still providing for the reasonable and necessary application of pesticides toxic to bees to blossoming plants. The regulations may be limited to specific blossoming plants.

(b) Regulations adopted pursuant to this section may be applicable to either the entire state or specified areas of the state. Regulations that are applicable to only specified areas of the state shall include provisions for the mandatory notice of movement of apiaries, including any relocation thereof within the area to which the regulations are applicable.

(c) The regulations may also include provisions for timely notification of apiary owners of proposed pesticide applications, and limitations on the time and method of application of pesticides and the pesticides used.

29103. Failure of a beekeeper to remove hives from a specific location, except during specific periods of time, as provided in subdivision (c) of Section 29102 after notification, shall not prevent the application of pesticides to blossoming plants if consistent with the pesticide's labeling and regulations. When the pesticide applicator has complied with the notification pursuant to subdivision (c) of Section 29102 the applicator shall not be liable for injury to bees that enter the area treated during or after the application.

Article 8. Quarantine

29110. The director may adopt by regulation and establish, maintain, and enforce a quarantine at the boundaries of, or within, the state, to protect the bee industry against the introduction or spread of any bee pest. The director may make and enforce such regulations as may be necessary to prevent any bees, comb, hives, or appliances from passing over any quarantine line which is established and proclaimed pursuant to this article.

29111. If any quarantine is established pursuant to this article, no person shall move any bees, comb, hive, or appliance, across the lines established by the quarantine except pursuant to the regulations of the director.

29112. If an inspector finds any pest or disease which is known to be contagious in any apiary, the inspector may hold the apiary and may require that abatement be performed under his or her direct supervision. The inspector shall give notice that the apiary is held to the owner or bailee and post a copy of the notice in a conspicuous place in the apiary.

29113. If notice that an apiary is being held has been given pursuant to Section 29112, no person shall move the apiary, or any part of the apiary, or any other bee equipment from the location, unless the person is authorized by an inspector, until the hold order is released.

29114. Upon request of the owner of any apiary which is held pursuant to an order by an inspector, the inspector shall release the hold order by issuing a permit to move the apiary if the inspector determines that the pest or disease has been abated. The permit shall state on it that the apiary had been under a hold order at the point of origin, was released from the hold order, and the date of release.

Article 9. Importation

29120. Except as otherwise provided in Section 29121, no person shall import or transport into the state any comb, bees on comb, queen bees, package bees, bee semen, or any used hive or used appliance, unless each separate load, lot, or shipment is accompanied by a valid certificate prescribed by this article, and filed in a form and in the manner as set forth by the director, and unless the certificate is delivered to the commissioner of the county of destination or to the director, if there is no commissioner in the county, within 72 hours after the arrival of the load, lot, or shipment.

29121. (a) A person may import or transport any of the following into the state without complying with the requirements prescribed by Section 29120:

(1) Packaged comb honey.
(2) Empty package bee cages.
(3) Moving screens.
(4) Bee smokers.

(5) Bee veils.

(6) Hive tools.

(b) No importation shall be allowed if it would violate any quarantine regulation adopted by the director pursuant to Section 29110.

29122. Except as provided in Section 29123, the certificate required by Section 29120 shall be signed by the State Entomologist, State Apiary Inspector, or comparable officer in charge of apiary inspection for the state of origin and shall certify to all of the following facts:

(a) The name and address of the owner or shipper and the place of destination in this state.

(b) The number or amount of queen bees, package bees, bee semen, hives, or nuclei which contain bees, the number of used hives either empty or containing comb, and a complete list of any other used beekeeping equipment in the shipment.

(c) The county and state of origin.

(d) The date on which inspection was last made of the apiary in which the bees, comb, used hives, and appliances originated.

(e) That the apiary was found free of all pests denoted as pests by the State of California, using detection procedures and methods approved by the director.

(f) If the pest is American foulbrood, the total number of colonies in the apiary at the time of inspection, and the number of colonies found infested.

(g) That all American foulbrood colonies of bees found upon inspection were destroyed, removed to a quarantine apiary, or removed to wax salvage, prior to the issuance of the certificates.

29123. In lieu of the requirements of Section 29122, the certificate required by Section 29120 may be a California certificate of inspection issued pursuant to Sections 29140 to 29145, inclusive, and showing the comb, bees on comb, or hives or appliances has or had been inspected in California within the 12 months prior to their return to California and at the time of the inspections had been found to have had less than 1 percent American foulbrood disease. Beekeepers or their agents shall carry a copy of the certificate with them and proof of ownership of the apiary and its contents, for production to the border inspectors on demand upon reentry.

29124. Any shipment of bees on comb, used hives, or used appliances arriving in this state which is not accompanied by, where required by Section 29120, a valid certificate shall be refused entry and returned to the shipper or destroyed, at the option and expense of the owner or person in charge of the shipment.

29125. The certificates required by Section 29120 are valid only during the inspection season in which they were issued, except that a certificate that covers a shipment arriving prior to April 1 from a locality that has severe winters shall be valid if it shows the last inspection of the apiary was made on or after August 15 of the preceding year.

29126. (a) If any bees, comb, hives, or appliances entering California are found to be diseased at the time of inspection in this state within 30 days after arrival, the inspector may hold the apiary, lot, or shipment. The inspector shall give notice to the owner or bailee, as prescribed in Section 29113, that the apiary, lot, or shipment is held.

(b) If any load, lot, or shipment of bees, comb, hives, or appliances, entering California are found at the time of inspection in this state within 30 days after arrival to have more than 2 percent American foulbrood disease, that load, lot, or shipment of bees, comb, hives, or appliances shall be removed from the state and returned to the shipper.

29127. Any American foulbrood disease or other disease found pursuant to subdivision (a) of Section 29126 shall be abated pursuant to Article 14 (commencing with Section 29200) of this chapter.

29128. After the American foulbrood disease or other disease has been abated, the inspector may release the hold order, if the release can be made without menace or harm from the disease to the bee industry of this state. If the release cannot be so made, after the disease has been abated, the remaining bees, comb, hives, and appliances shall be destroyed or shipped out of this state within 72 hours after the expiration of the abatement notice, at the option and expense of the owner or bailee.

Article 10. Exportation

29140. As used in this article, "certificate" means the certification by a commissioner, or an inspector of the condition of any apiary which is to be transported to another state or country.

29141. The board of supervisors of any county may estalish a schedule of fees for certificates for bees on comb to be paid by persons that request the certificates.

29142. No fee shall be charged for certification required by any law, regulation, or requirement of the United States.

29143. The schedule of fees for the certificates shall be based upon the estimated cost of the inspection.

29144. A commissioner shall make reasonable inspection as may be necessary to determine the facts which are required by the state or country of intended destination and shall issue a certificate that states the facts which are determined upon receipt of the scheduled fee for a certificate or, if no scheduled fee has been established, upon request.

29145. It is unlawful for any person to alter, deface, or misuse any certificate issued pursuant to this article.

Article 11. Wax Salvage

29150. No person shall remove, salvage, or attempt to salvage, any bees, comb, honey, royal jelly, pollen, beeswax, or frames from

any diseased colony, including American foulbrood disease, except pursuant to this article or Section 29074.

29151. All wax salvage operations with respect to diseased colonies shall be performed in an enclosure which is constructed in accordance with specifications, and in the manner set forth, in regulations of the director.

29152. The director shall prepare and furnish to interested parties upon request, uniform specifications for the construction of wax salvage plants, and adopt regulations for the operation of the plants in a manner to prevent the spread of pests or disease from the plants.

29153. Any person that desires to maintain and operate a plant for the salvaging of wax, hives, and appliances from diseased apiaries shall apply to the director for an annual license for each separate wax salvage plant.

29154. The director shall make such investigations as the director determines are necessary and shall issue the license without fee if the director is satisfied that the plant is constructed in accordance with specifications in, and that the plant will be operated pursuant to, regulations adopted pursuant to this article.

29155. A license is good for the calendar year within which it is issued and shall expire on December 31, of that year, unless it is revoked or suspended sooner.

29156. Any license which is issued pursuant to this article may be revoked or suspended, or a license renewal may be refused by the director, after hearing, if the director finds that the licensee has not complied with this article and the regulations adopted pursuant to it.

29157. To the greatest extent possible, the proceedings for all hearings under this article shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The director shall have all the powers which are granted by the chapter.

Article 12. Sanitation

29170. No person shall maintain or operate a diseased colony of bees, except pursuant to Section 29074.

29171. No person shall conceal or attempt to conceal the fact that disease exists within an apiary.

29172. No person shall sell any diseased bees, comb, hive, appliance, or colony.

29173. No person shall abandon any diseased apiary.

29174. No person shall expose to bees any comb or honey from a diseased colony of bees, except pursuant to Section 29074.

29175. No person shall extract or render any honey, pollen, or wax from comb except in a building or enclosure which is so constructed as to prevent access by bees.

29176. No person shall possess any comb which is not occupied by

a live bee colony unless the comb is tightly enclosed to prevent access to the comb by bees.

29177. Any hive or appliance which contains any comb that is not occupied by a live bee colony and that is accessible to bees constitutes a public nuisance. The hive or appliance shall be subject to abatement in the same manner as is provided in Article 14 (commencing with Section 29200) of this chapter for abatement of disease.

29178. No person shall make honey available to bees by means of open air feeding.

29179. All beekeepers shall provide movable frames in the brood area of all hives which they use to contain bees, and shall make provisions so the bees in the hives shall construct combs in the frames in such a way that the combs may be removed from the hives for inspection without damaging other combs in the hives.

29180. The inspector shall order the owner or person in charge of any bees which are kept in a box or other unmovable or stationary comb hive to transfer the bees to a movable frame hive within a reasonable time, to be specified in the order. In default of transfer by the owner or person in charge of the bees, the inspector may destroy in a summary manner the hive and its contents.

29181. No person shall place, in any combless package of bees or queen bees offered for sale or shipment, any food which contains honey.

Article 13. Colony Strength

29190. The director may establish a system for certifying colony strength for bees used in the pollination of agricultural crops.

29191. The colony strength of a bee colony shall be certified after inspection on the basis of the number of active frames of bees or the square inches of brood per colony, or both, using a sampling system, approved by the director.

29192. The inspection and certification of colony strength of bees may be made by department employees, the commissioner or persons authorized by the commissioner, or persons appointed by the director.

29193. Inspection and certification shall be made at the request of the beekeeper or agricultural producer involved. The party requesting the inspection and certification shall pay for the service. To the greatest extent possible, the inspector shall endeavor to give the beekeeper advance notice of the scheduled date of the inspection.

29194. The director may by regulation establish reasonable fees to cover the cost of inspection and certification performed by department employees and persons appointed by the director, other than the agricultural commissioner.

29195. The board of supervisors of the county may establish reasonable fees to cover the cost of inspection and certification

performed by the commissioner.

Article 14. Apiary Inspection

29200. The Legislature finds that in order to ensure the vitality of the apiary industry, to protect the welfare of the people of the State of California, as well as agricultural crops dependent upon bees for pollination, a pest inspection program should be an integral part of the regulatory scheme contained in this division. The Legislature further finds that without a continuing regular inspection program, as further specified in this article, the programs and requirements of law set forth in this division will be impaired.

29201. (a) The director, or the commissioner, or any inspector acting under their direction, may enter if he or she determines it to be necessary, any location where an apiary is maintained, and make an inspection of the apiary, including ancillary buildings. The inspector may give prior notice of the inspection where the notice would not interfere with the purpose of the inspection. The right of inspection shall occur at reasonable times, and shall not include any dwelling. If the inspector desires entry to any dwelling because he or she suspects maintenance problems regarding a colony, hive, comb, or appliance therein, the inspector, upon request, shall obtain a warrant pursuant to the provisions of Section 1822.50 of the Civil Code and comply with the provisions therein. No person shall interfere with the entry of an inspector in the official course of his or her duty. The inspector shall report the result of the inspection to the beekeeper, where feasible, within five days of the inspection.

(b) If the inspector finds American foulbrood disease has infected more than two hives of 99 colonies or less, or 2 percent or more of colonies of 100 or more, he or she shall make a complete inspection of all the hives in the apiary and the owner of the hives in the apiary shall pay the cost of the complete inspection. If the inspector finds American foulbrood disease has infested less than 2 percent of colonies of 100 or more as the result of an inspection made after the disease was brought to the inspector's attention in writing, the commissioner may assess the costs of the inspection on the person who brought the disease to the inspector's attention.

29202. If, in the course of an inspection authorized by Section 29201, the inspector finds or has reason to suspect that there are pests in the apiary, the inspector shall plainly mark the hives or any part thereof which contain evidence of pest infestation. The inspector may place a band with a seal around a diseased hive.

29203. If infestation is found in an apiary, the inspector shall notify the owner or person in charge or possession of the apiary in writing. The notice shall state the nature of the pest infestation found and the manner in which the inspector has marked the hives or any part thereof which contain evidence of the infestation and shall order the abatement of the infestation within a specified time. No person after receiving notice shall refuse or neglect to abate the

infestation within the time specified in the notice or order.

If the inspector, in his or her judgment, believes summary abatement is necessary, the inspector may do so, or require that abatement be performed under his or her direct supervision. The inspector may also issue a hold order against the apiary, giving notice that the apiary is held to the owner or bailee and posting a copy of the hold order in a conspicuous place in the apiary. No person, who has been given notice of a hold order, shall move the apiary or any part of the apiary or any other bee equipment from the location unless authorized by the inspector, until the hold order is released.

29204. Every infested apiary is a public nuisance. The owner or person in charge or possession of any apiary, upon finding an infestation to be present, or upon receiving notice an infestation exists in the apiary, shall abate the infestation without undue delay, pursuant to the requirements of law.

29205. The notice may be served upon the person that has possession or that owns the infested apiary, personally or by certified mail to his or her last known address. If the owner or person in charge or possession of any apiary is not known, the notice shall be served by posting it in a conspicuous place in the apiary.

29206. If the infestation found in an apiary is American foulbrood, the time specified in the notice shall not be less than 24 hours nor more than 48 hours from the time the notice is served, except that the inspector may extend the time limit if necessary to prevent hardship and it can be done without undue danger of spreading the disease.

29207. If American foulbrood is found in an apiary, the abatement shall be by killing the bees in the infested colonies and disposing of the hives and their contents, together with any other infested comb, hives, and associated appliances which are found in the apiary, in one of the following ways:

(a) By delivery to a licensed wax salvage plant pursuant to this chapter.

(b) By burning in a manner as set forth in Section 29208, the contents of the diseased colonies, including the bees, comb, and associated frames, together with any other diseased combs, and associated frames, which are found in the apiary in one of the following ways and disinfecting by scorching the hive bodies, covers, bottom boards, supers, and appliances associated with them:

(1) Burning in a pit and burying the ashes not less than two feet below the surface of the ground.

(2) Burning in an incinerator approved by the director. This section does not prevent federal and state research agencies from securing, transporting, and maintaining infested bees, comb, hives, appliances, or colonies pursuant to Section 29074.

29208. (a) If abatement is by burning, the person abating shall act in accordance with applicable air pollution control district or air quality maintenance district regulations and state and local fire control laws. If the regulations or laws prohibit burning immediately,

the diseased colonies shall be sealed and placed in an enclosed structure and thereafter burned on the first date allowed by the regulation or law. All the activities shall be reported to the inspector prior to burning, who may require that burning occur only under his or her supervision.

(b) The inspector's supervison shall be in addition to, but not in conflict with, the applicable air pollution control district or air quality management district regulations and fire control laws. Burning without the knowledge of the inspector is a violation of this section.

(c) If abatement is by delivery to a licensed wax salvage plant, the person abating shall provide the inspector with information as to the date and location of delivery.

(d) If the inspector determines that abatement by burning is appropriate, the inspector's costs for supervising the burning shall be borne by the beekeeper with the diseased hives.

29209. If the owner or person in charge or possession of an apiary in which an infestation is found to exist cannot be located after diligent search by the inspector, or if notice has been served pursuant to this article and the owner or person in charge or possession of the apiary refuses or neglects to abate the infestation within the time which is specified in the notice, the inspector shall abate the infestation within 72 hours after expiration of the time which is specified in the notice. The cost of abatement shall be paid by the owner of the apiary.

29210. If an abatement notice as required by this article has been served upon the owner or bailee of an apiary, the owner or bailee, before the expiration of the time specified in the notice, may appeal from the inspector's field determination of the infestation named in the notice by sending a written appeal to the director with a specimen of the infested material chosen and sealed for transportation jointly by the owner or bailee and the inspector, which is accompanied by a statement signed by the owner or bailee and the inspector, attesting to the fact that such specimen was obtained from the portion of the apiary described in the abatement notice.

29211. In those instances when the inspector has sealed the infested hive after making a field determination, if a beekeeper appeals the inspector's field determination, the owner or bailee of the apiary and the inspector shall jointly break the seal and take the sample for appeal. If the band is broken in the absence of the inspector, no appeal shall be valid and the infestation shall be abated as described in the abatement notice.

29212. The specimen shall be subjected to a laboratory diagnosis by the director, or at his or her direction. The written determination which sets forth the findings of the diagnosis is final proof of the nature of the infestation which exists in the apiary.

29213. The disease which is named by the director in a written response to the appeal may be abated pursuant to this chapter.

Pending the determination of the director, the time which is specified in the abatement notice shall be extended by the number of hours between the forwarding of the representative specimen and the receipt of the written determination from the director by the inspector, and the service of a copy of the written determination upon the owner or bailee that made the written appeal. If the owner or bailee cannot be found after due diligence, the extended time shall expire when a copy of the director's determination is served by posting it in the apiary.

Article 15. Enforcement and Penalties

29300. The director, and the commissioner of each county under the direction and supervision of the director shall enforce this chapter.

29301. The director may make any regulations that are reasonable and necessary to carry out this chapter.

29302. Unless otherwise stated, it shall be an infraction for any person to fail to comply with any requirement of this chapter, or regulations adopted thereto after a warning notice of seven days is given. However, there shall be no warning notice for infractions involving the following sections:

(a) Subdivisions (b) and (c) of Section 29046.
(b) Subdivisions (b) and (c) of Section 29056.
(c) Section 29072.
(d) Section 29111.
(e) Section 29113.
(f) Section 29120.
(g) Section 29126.
(h) Section 29127.
(i) Section 29145.
(j) Section 29150.
(k) Section 29170.
(*l*) Section 29171.
(m) Section 29172.
(n) Section 29173.
(o) Section 29204.

Violations thereof shall be referred to the district attorney in the affected county, or to the Attorney General if the district attorney is not able to prosecute the matter. For purposes of this chapter, each incident shall constitute a separate infraction. Where violations of provisions governing hives or colonies are involved, each separate hive or colony shall constitute a separate infraction. Notwithstanding any other provision of law, the maximum penalty of each infraction herein shall be one hundred dollars ($100) for the first hive or colony, plus one dollar ($1.00) for each additional hive or colony not in compliance, as applicable to a maximum penalty not to exceed one thousand dollars ($1,000), except that a violation of Section 29070 shall be subject to a maximum fifty dollar ($50) fine. Nothing herein

shall prevent the director or the commissioner from initiating any procedures for issuance of a prior warning notice or notice to correct.

29303. It shall be an infraction for any person to fail to comply with any notice or order which is issued pursuant to this chapter subject to the penalties set forth in Section 29302.

29304. (a) In addition to the penalties outlined in Sections 29302 and 29303 above, any person not complying with any provision of this chapter or regulation adopted thereto, or any notice or order issued pursuant to this chapter or regulation, shall be subject to a civil penalty of not more than five hundred dollars ($500) for each day that the violation continues.

(b) The director or commissioner may also seek injunctive relief against any person operating in violation of this chapter or regulations adopted thereto, or violation of any order or notice issued pursuant to the authority of this chapter or regulation adopted thereto.

(c) Any action for recovery of civil penalties or injunctive relief shall be referred to the Attorney General.

29305. (a) Any penalties recovered under this chapter, whether criminal or civil, shall be paid into a special account maintained by the department, and shall be used for the administration of Section 29302, except that up to 50 percent of the costs incurred by a district attorney in prosecuting a case under Section 29302 shall be reimbursed from whatever penalties are obtained from the prosecution.

(b) In determining the amount of any civil or criminal penalty provided for in this chapter, the court shall consider the seriousness of the conduct, and all relevant circumstances including, but not limited to, the extent of the harm caused by the conduct; the motive and persistence of the conduct; the length of time over which the conduct occurred; the economic impact on the person involved, whether a corporation or an individual; and any corrective action taken by the person.

29306. In addition to any other penalty provided for by law, and by this article, any person who willfully or intentionally violates any provisions of this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be recovered in a civil action brought in the name of the people of the State of California by the Attorney General.

29307. Any person who violates any injunctive order issued pursuant to subdivision (b) of Section 29304 shall be subject to a civil penalty, in addition to any other penalty provided for by law, not to exceed six thousand dollars ($6,000). Where the conduct constituting a violation is of a continuing nature, each day of violative conduct shall be a separate and distinct violation.

29308. The director shall appoint a supervisor of apiary inspection and such qualified state apiary inspectors as may be necessary.

29309. Each commissioner is an ex officio state apiary inspector

and may appoint one or more inspectors, qualified pursuant to the regulations of the director, to be county apiary inspectors.

29310. The director may assign one or more qualified state apiary inspectors to perform the duties of a county apiary inspector in any county for such time and rate of compensation as may be determined by agreement with the board of supervisors pursuant to Section 482. The state apiary inspector shall be under the direction and supervision of the commissioner if there is a commissioner in the county to which the inspector is assigned.

29311. The penalties prescribed by this chapter are exclusive and no other civil penalties may be assessed.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because self-financing authority is provided in this act 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.

CHAPTER 1405

An act to amend Sections 54690, 54691, and 54692 of, to amend the heading of Article 5 (commencing with Section 54690) of Chapter 9 of Part 29 of, to add Sections 54695 and 54696 to, and to repeal and add Sections 54693 and 54694 of, the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor September 29, 1987. Filed with Secretary of State September 29, 1987.]

I am deleting the $535,000 appropriation contained in Section 11 of Senate Bill No. 605

K-12 schools are now receiving over $20 billion from all sources, including $19,750,000 to fund a number of existing programs designed to prevent school dropouts. These funds should be sufficient to provide necessary educational services without placing additional pressure on taxpayer funds for programs that fall beyond the priorities currently provided.

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties

I would, however, consider funding the provisions of this bill during the budget process for Fiscal Year 1988–89. It is appropriate to review the relative merits of this program in comparison to all other funding projects. The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit

With this deletion, I approve Senate Bill No. 605.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The heading of Article 5 (commencing with Section 54690) of Chapter 9 of Part 29 of the Education Code is amended to read:

Article 5. Partnership Academies

SEC. 2. Section 54690 of the Education Code is amended to read:

54690. The Legislature hereby finds and declares that the Peninsula Academies Model Program has proven to be an effective school-business partnership program to provide occupational training to educationally disadvantaged high school students who present a high risk of dropping out of school. "Educationally disadvantaged high school students," for the purposes of this article, means students enrolled in high school who are at-risk of dropping out of school as indicated by at least three of the following four criteria:

(a) Past record of irregular attendance.

(b) Past record of underachievement (at least one year behind in the coursework for the student's respective grade level).

(c) Past record of low motivation or a disinterest in the regular school program.

(d) Disadvantaged economically.

The Legislature further finds that the success of the program is directly related both to the participation of private entities which have provided personnel, equipment, and training positions and to the initial development of the program conducted by the Sequoia Union High School District.

The Legislature further finds and declares that although the original Peninsula Academies were established to provide training in the high technology fields of computers and electronics, the model program has been developed successfully in the fields of medicine, finance, and food services, as well as high technology. It is therefore the intent of the Legislature that additional academies, to be known hereafter as Partnership Academies, be established in California.

SEC. 3. Section 54691 of the Education Code is amended to read:

54691. Commencing with the 1987–88 fiscal year, from the funds appropriated for that purpose, the Superintendent of Public Instruction shall issue grants to school districts maintaining high schools which meet the specifications of Section 54692, for purposes of planning, establishing, and maintaining academies, as follows:

(a) For the 1987–88, 1988–89, 1989–90, and 1990–91 fiscal years, the superintendent may issue a maximum of 15 grants per year, for purposes of planning Partnership Academies and developing the curriculum. The Superintendent of Public Instruction, when issuing the grants to school districts, shall ensure that the grants are equitably distributed among high wealth and low wealth school districts in urban, rural, and suburban areas. Each planning grant shall be in the amount of fifteen thousand dollars ($15,000).

(b) For the 1987–88 fiscal year, and each fiscal year thereafter, the superintendent may issue grants for the implementation and maintenance of academies initiated by the Sequoia Union High School District, the Peninsula Academies Model Program, or planned pursuant to subdivision (a). Implementation and

maintenance grants shall be calculated in accordance with the following schedule:

(1) Districts operating academies established under the Peninsula Academies Model Program or the Sequoia Union High School District, may receive seven hundred fifty dollars ($750) per year for each qualified student enrolled in an academy, provided that no more than sixty-seven thousand five hundred dollars ($67,500) may be granted to any one academy for each fiscal year.

(2) Districts operating one or more academies may receive two thousand two hundred fifty dollars ($2,250) for each qualified student enrolled in an academy during the first year of that academy's operation, provided that no more than sixty-seven thousand five hundred dollars ($67,500) may be granted to any one academy for the initial year.

(3) Districts operating one or more academies may receive one thousand five hundred dollars ($1,500) for each qualified student enrolled in an academy during the second year of that academy's operation, provided that no more than ninety thousand dollars ($90,000) may be granted to any one academy for the second year.

(4) Districts operating one or more academies may receive seven hundred fifty dollars ($750) per year for each qualified student enrolled in an academy during the third year and for each year of operation thereafter, provided that no more than sixty-seven thousand five hundred dollars ($67,500) may be granted to any one academy for each fiscal year.

(c) For purposes of this article, a qualified student is a student who is enrolled in an academy for the 10th, 11th, or 12th grade, successfully completes a school year in the academy with an attendance record of no less than 80 percent positive attendance, and obtains 90 percent of the credits each academic year in courses that are required for graduation.

(d) At the end of each school year, school districts that have been approved to operate academies pursuant to this article shall certify the following information to the Superintendent of Public Instruction:

(1) The number of qualified students enrolled during the just completed school year, by grade level, for each academy operated by the district.

(2) The operation of each academy in accordance with this article, including Sections 54692 and 54694.

(3) The amount of matching funds and the dollar value of in-kind support made available to each academy in accordance with subdivisions (a) and (b) of Section 54692.

(e) The superintendent shall adjust each school district's grant in accordance with the certification made to him or her pursuant to subdivision (d) or in accordance with any discrepancies to the certification that may be revealed by audit. Notwithstanding the provisions of this section, the superintendent may advance the funding as he or she deems appropriate to districts that are approved

to operate, or plan to operate Partnership Academies.

(f) Funds granted to school districts pursuant to this article may be expended without regard to fiscal year.

SEC. 4. Section 54692 of the Education Code is amended to read:

54692. In order to be eligible to receive funding pursuant to this article, a district shall provide all of the following:

(a) An amount equal to a 100 percent match of all funds received pursuant to this article, in the form of direct and in-kind support provided by the district.

(b) An amount equal to a 100 percent match of all funds received pursuant to this article, in the form of direct and in-kind support provided by participating companies or other private sector organizations.

(c) An assurance that each Partnership Academy will be established as a "school within a school" in the same manner as the Peninsula Academies Model Programs.

(d) Assurance that each academy student will be provided with:

(1) Instruction in at least three academic subjects each regular school term that prepares the student for a regular high school diploma. When possible, these subjects should relate to the occupational field of the academy.

(2) A "laboratory class" related to the academy's occupational field.

(3) A class schedule which limits the attendance to the classes required in paragraphs (1) and (2) to pupils of the academy.

(4) A mentor from the business community during the pupil's 11th grade year.

(5) A job related to the academy's occupational field or work experience to improve employment skills, during the summer following the 11th grade. A student that must attend summer school for purposes of completing graduation requirements is exempt from this paragraph.

(6) Additional motivational activities with private sector involvement to encourage academic and occupational preparation.

SEC. 5. Section 54693 of the Education Code is repealed.

SEC. 6. Section 54693 is added to the Education Code, to read:

54693. The Superintendent of Public Instruction shall establish eligibility criteria for school districts that apply for grants pursuant to this article. When establishing criteria, the superintendent shall consider the commitment and need of the applicant district. The superintendent may consider district indicators of need such as the number or percent of pupils in poverty or with limited-English proficiency, and the dropout rate.

No school district with less than three high schools may establish more than one academy until it has operated the existing academy successfully for two years. No school district with more than two high schools may establish more than two academies until it has operated the existing academy or academies successfully for two years. The years in which districts receive planning grants pursuant to

subdivision (a) of Section 54691, shall not be considered years of operation for purposes of this article.

SEC. 7. Section 54694 of the Education Code is repealed.

SEC. 8. Section 54694 is added to the Education Code, to read:

54694. The Superintendent of Public Instruction shall develop guidelines with respect to the Partnership Academies. The guidelines shall include, but not be limited to, enrollment provisions, application procedures, and student eligibility.

SEC. 9. Section 54695 is added to the Education Code, to read:

54965. (a) The ninth grade teachers and counselors in schools maintained by school districts approved to operate academies pursuant to this article shall identify students eligible to participate in a Partnership Academy.

(b) Teachers and counselors in schools maintained by school districts approved to operate academies pursuant to this article, business representatives, and academy students of academies that are operating in the area shall be encouraged to make presentations to prospective students and their parents.

(c) The staff of each Partnership Academy shall select students from among those who have expressed an interest in the academy and whose parents or guardians have approved the student's participation.

SEC. 10. Section 54696 is added to the Education Code, to read:

54696. The Superintendent of Public Instruction shall contract for a three-year independent review of the effectiveness of the Partnership Academies, and shall report the results of the review to the Legislature by January 1, 1991.

The independent review shall include, but not be limited to, the following:

(a) An analysis of the extent and degree of success of business and industry involvement, including in-kind contributions, mentor services, summer jobs, and assistance in job placement.

(b) The number of pupils entering advanced training programs, obtaining employment, and enrolling in postsecondary institutions.

(c) Attendance rates.

(d) The number of pupils completing their high school education and graduating.

SEC. 11. (a) There is hereby appropriated from the General Fund to the State Department of Education the sum of five hundred thirty-five thousand dollars ($535,000) or the 1987–88 fiscal year for allocation in accordance with the following schedule:

(1) In augmentation to Budget Item 6100-166-001 of the 1987 Budget Act, for funding the two school districts which received 1986–87 planning grants	$135,000
(2) In augmentation of Budget Item 6100-166-001 of the Budget Act, for funding the existing 10 academies pursuant to Section 54691 of the Education Code	75,000
(3) For the planning grants to 15 academies pursuant to Section 54691 of the Education Code	225,000
(4) For the independent evaluation pursuant to Section 54695 of the Education Code	50,000
(5) For the State Department of Education administrative costs for the purposes of Article 5 (commencing with Section 54690) of Chapter 9 of Part 29 of the Education Code	50,000

(b) It is the intent of the Legislature that funding in future fiscal years for the Partnership Academies program, established in Article 5 (commencing with Section 54690) of Chapter 9 of Part 29 of the Education Code, 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 for Partnership Academies in the superintendent's annual budget report to the Governor and the Legislature.

CHAPTER 1406

An act amending and supplementing the Budget Act of 1987 by adding Items 0690-101-036, 2660-001-036, 3540-102-036, 3600-101-036, 3760-301-036, 3790-108-036, and 3860-102-036 to Section 2.00 thereof, relating to fiscal affairs, and making an appropriation therefor.

[Became law without Governor's signature Filed with Secretary of State September 30, 1987]

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

SECTION 1. The Legislature hereby finds and declares as follows:

(a) The California Academy of Sciences has served the scientific, educational, and recreational needs of the citizens of California since its founding in 1852 and has established an internationally respected staff of scientists, valuable research collections and facilities, diverse educational programs, and popular scientific exhibits.

(b) The rapid advance of science, the growth and increased diversity of California's population, and the aging and depreciation

of the academy's physical plant all dictate that the academy now make major capital improvements to maintain its 134-year tradition of excellent service to the people of California or risk a decline to mediocrity and inadequacy.

(c) California acknowledges the importance of science education and the extensive contribution of the California Academy of Sciences in providing scientific education programs, collections base, scientific staff, library resources, and science research to the citizens of this state and in freely supporting agencies such as the California Department of Food and Agriculture with annual identifications of hundreds of plants and insects.

(d) The California Academy of Sciences clearly augments and supports science education of both the private and public school systems by providing science education programs and services annually to approximately 500,000 California children and to 625 California teachers as well.

(e) The California Academy of Sciences provides continuing science and natural history education through informal education and formal adult education programs.

(f) The California Academy of Sciences is used by faculty and students of the University of California, state university, college systems, and private institutions for teaching, training, and research purposes in all areas of natural sciences and anthropology.

(g) Since its founding, the California Academy of Sciences has increasingly acted as a free primary resource for agencies and departments by providing assistance on a range of natural science problems by making available staff scientists and use of its collections, libraries, and facilities.

(h) The California Academy of Sciences' national and international prominence as a major natural history museum is a direct asset to the state's leading role in science and high technology industries, environmental research, public policy development, and protection of rare and endangered plants, habitats, and species.

SEC. 2. Notwithstanding any other provision of law, the sum of one million seven hundred fifty thousand dollars ($1,750,000) received by the state pursuant to Chapter 138 of the Statutes of the 1964 First Extraordinary Session is hereby appropriated to the Controller for allocation to the California Academy of Sciences for capital improvements, including the construction of new, and the restoration of existing, scientific exhibits and educational facilities. The California Academy of Sciences shall provide a matching sum for these purposes obtained through gifts and donations of nonstate dollars.

SEC. 3. Item 0690-101-036 is added to Section 2.00 of the Budget Act of 1987, to read:

0690-101-036—For local assistance, Office of Emergency Services, payable from the Special Account for Capital Outlay 100,000
Provisions:
1. Funds appropriated in this item are for a grant to Stanislaus County for the purpose of upgrading the 911 Service Dispatch Center.

SEC. 4. Item 2660-001-036 is added to Section 2.00 of the Budget Act of 1987, to read:

2660-001-036—For support of the Department of Transportation, payable from the Special Account for Capital Outlay 250,000
Provisions:
1. Funds appropriated in this item are for the purposes of the Feederbus Demonstration Program relating to Caltrain.

SEC. 5. Item 3540-102-036 is added to Section 2.00 of the Budget Act of 1987, to read:

3540-102-036—For local assistance, Department of Forestry, payable from the Special Account for Capital Outlay 20,000
Schedule:
(1) Lassen County, Fire Training Center 20,000

SEC. 6. Item 3600-101-036 is added to Section 2.00 of the Budget Act of 1987, to read:

3600-101-036—For local assistance, Department of Fish and Game, payable from the Special Account for Capital Outlay 75,000
Provisions:
1. Funds appropriated in this item are for the purposes of a grant to the Central Coast Salmon Enhancement Project.

SEC. 7. Item 3760-301-036 is added to Section 2.00 of the Budget Act of 1987, to read:

3760-301-036—For local assistance, State Coastal Conservancy, payable from the Special Account for Capital Outlay 600,000
Provisions:

1. Funds appropriated in this item are for the Manhattan Beach Pier Project.

SEC. 8. Item 3790-103-036 is added to Section 2.00 of the Budget Act of 1987, to read:

3790-103-036—For local assistance, Department of Parks and Recreation, payable from the Special Account for Capital Outlay 3,010,000
Schedule:

(1) Santa Clara County, Los Gatos Creek Trail	250,000
(2) East Bay Regional Park District, Wool Ranch Property Acquisition	360,000
(3) City of Bellflower, Thompson Pool Reconstruction	150,000
(4) City of Cudahy, Community Pool Project	50,000
(5) City of Fresno, Old Administration Restoration Project, Fresno City College	1,000,000
(6) City of Chula Vista Park and Recreation District, Norman Park Senior Center	200,000
(7) City of Los Angeles Housing Authority, Ramona Gardens Housing Project, recreation equipment and repairs	85,000
(8) City of Atwater, Community Service Center	50,000
(9) City of Desert Hot Springs, Baseball park lighting	15,000
(10) City of Oakland, Aquatic Biology Hall Project, Oakland Museum	250,000
(11) City of Norwalk, Norwalk Park Refurbishment	100,000
(12) County of Los Angeles, Highland-Camrose Bungalows	500,000

SEC. 9. Item 3860-102-036 is added to Section 2.00 of the Budget Act of 1987, to read:

3860-102-036—For local assistance, Department of Water Resources, payable from the Special Account for Capital Outlay 50,000
Provisions:

1. Funds appropriated in this item are for the purposes of relocating the Hillmar Water District pumping station.

SEC. 10. It is the intent of the Legislature that the appropriations identified in Section 5 of this act and in schedules (1) through (4) inclusive, of Section 8 of this act shall be in augmentation of, and supplementary to, appropriations contained in SB 1508 of the 1987–88 Regular Session.

CHAPTER 1407

An act to add Section 1182.10 to the Labor Code, relating to horseracing.

[Became law without Governor's signature Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 1182.10 is added to the Labor Code, to read:

1182.10. (a) Notwithstanding any other provision of this chapter, or any order of the Industrial Welfare Commission, the employment of stable employees engaged in the raising, feeding, and management of racehorses by a trainer shall be subject to the same standards governing wages, hours, and conditions of labor as those established by the commission for employees in agricultural occupations engaged in the raising, feeding, and management of other livestock, except as set forth in subdivision (b).

(b) Notwithstanding the provisions of any order of the commission permitting employees employed in agricultural occupations to work 10 hours on each of six workdays in a seven-day workweek without the payment of overtime compensation, stable employees shall not be employed more than 10 hours in any workday, nor more than 56 hours during seven days in any workweek. However, stable employees may be employed in excess of 10 hours in any workday, and in excess of 56 hours during seven days in one workweek, if these employees are compensated at a rate of not less than one and one-half times the employees' regular rate of pay for all hours worked in excess of 10 hours in any workday, or 56 hours in any workweek.

(c) For purposes of this section:

(1) "Stable employees" includes, but is not limited to, grooms, hotwalkers, exercise workers, and any other employees engaged in the raising, feeding, or management of racehorses, employed by a trainer at a racetrack or other nonfarm training facility.

(2) "Trainer" has the same definition as in Section 24001 of the Food and Agricultural Code.

(3) "Workday" and "workweek" have the same definition as in the order of the commission applicable to employees employed in agricultural occupations.

(4) "Regular rate of pay" includes all wages paid by the trainer to

the stable employee for a workweek of not more than 56 hours, but excludes those amounts excluded from regular pay by Section 7(e) of the Fair Labor Standards Act (29 U.S.C. Sec. 207(e)), and excludes the payment of the stable employee's share, if any, of the purse of a race, whether that share is paid by the owner of the racehorse or by the trainer.

CHAPTER 1408

An act to amend Sections 5038.2, 5091.10, 5091.15, 5091.20, and 5091.25 of the Public Resources Code, and to amend and supplement the Budget Act of 1985 by amending Item 3810-303-036 of Section 2 thereof, and to amend and supplement the Budget Act of 1987 by adding Items 0840-101-036, 1760-302-036, 2660-301-036, 3540-101-036, 3790-102-036, 3790-302-036, 3790-302-722, 3790-302-728, 3810-302-036, and 8570-101-036 to Section 2.00 thereof, relating to fiscal affairs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

I am deleting the following appropriations contained in Section 11 of Senate Bill 1508:

SEC. 11. Item 3790-102-036

Schedule:

(7) California Academy of Sciences	$1,500,000
(31) City of Los Angeles, Highland-Camrose Bungalows.....	$500,000

The deleted projects are included in AB 1675 which I have just approved. With this deletion, I approve SB 1508.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 5038.2 of the Public Resources Code is amended to read:

5038.2. (a) Notwithstanding any other provision of this chapter or any other provision of law, the length of the term of any concession contract or approval within the El Pueblo de Los Angeles State Historic Park in effect on the effective date of this section shall, at the request of the concessionaire, be extended by the department or its designee until January 1, 1989. Any contract extended pursuant to this subdivision shall be renegotiated, if necessary, to ensure that the rental rates in the contract on January 1, 1988, accurately reflect current commercial rental market rates.

(b) The Director of Parks and Recreation shall prepare a progress report on the status of the negotiations with the City of Los Angeles to arrange for a long-term administration of the El Pueblo de Los

Angeles State Historic Park by either the City of Los Angeles or the state, and the administration of a concession operation therein by a master concessionaire, and shall submit the report to the Legislature on or before July 1, 1988.

(c) Notwithstanding any provision of this chapter or any provision of law except subdivisions (b), (c), and (d) of Section 5080.20, if applicable, any concession contract or approval extended or renegotiated pursuant to subdivision (a) or (b) may be superseded by the agreement to implement the procedure specified in Section 5038.1, when that agreement is executed and approved by the state.

SEC. 2. Section 5091.10 of the Public Resources Code is amended to read:

5091.10. (a) The State Park and Recreation Commission shall hold at least two public hearings, one in the northern portion of the state and one in the southern portion of the state, to seek proposals from individuals, winter recreation user groups, the department, and other public agencies for parking areas to be designated under this chapter. The director may appoint a committee of winter recreationists to advise him or her on the location of designated parking areas.

(b) The department shall, after consultation with the State Park and Recreation Commission, the Department of Transportation, the Department of the California Highway Patrol, the appropriate boards of supervisors, and any local public or private persons owning lands adjacent to each site, designate winter recreation parking locations throughout the state and include the sites as an element of the California outdoor recreation plan. The location and design of any proposed site adjacent to, or directly impacting on, a state highway shall be reviewed and approved by the Department of Transportation. The location and design of any proposed site adjacent to, or directly impacting on, a county road shall be reviewed and approved by the appropriate board of supervisors.

(c) Using funds appropriated from the Winter Recreation Fund and allocated pursuant to paragraph (1) of subdivision (b) of Section 5091.25, the Department of Transportation shall provide for the removal of snow accumulating on designated parking areas according to priorities established by the Department of Transportation in consultation with the department. The removal of snow from the roadway of state highways shall always take precedence over the removal of snow from designated parking areas.

(d) Using funds appropriated from the Winter Recreation Fund and allocated pursuant to paragraph (3) of subdivision (b) of Section 5091.25, the department may make grants to counties for the removal of snow accumulating on designated parking areas. The department may contract directly for snow removal, provision of sanitary facilities, and other services. In no event shall the removal of snow on designated parking areas become a county responsibility, except by agreement with the appropriate board of supervisors.

SEC. 3. Section 5091.15 of the Public Resources Code is amended

to read:

5091.15. (a) Except as provided in this section, no person shall, from November 1 of any year to May 30 of the next year or for a shorter time as determined by the department, park a vehicle in a designated parking area unless the vehicle displays a parking permit issued by the department. Overnight camping in a vehicle parked in a designated parking area may be authorized by the department when it determines that the use is for a recreational activity, is safe and prudent, and is of limited duration.

(b) No parking permit shall be required under this section for a vehicle owned and operated by the United States, another state or political subdivision thereof, or by this state or by a city, county, district, or political subdivision thereof.

(c) The fee for the issuance of a parking permit under this chapter shall be determined by the department. The department shall hold at least one public hearing and notify the Legislature at least 30 days prior to any proposal to change the fees. The amounts of the fees shall be limited as follows:

(1) Not more than five dollars ($5) for a permit that is valid for a period of one day.

(2) Not more than twenty-five dollars ($25) for a permit that is valid for a period of one year, beginning each November 1.

(d) A person who violates this section is guilty of an infraction punishable by a fine of seventy-five dollars ($75). Unless the peace officer issuing the citation witnesses the parking of the vehicle, a rebuttable presumption exists that a vehicle parked in violation of this section was parked by the registered owner of the vehicle. If the parking of the vehicle is witnessed by the peace officer, the operator of the vehicle is in violation of this section.

(e) The department may negotiate reciprocity agreements with other states having similar programs if the agreements are in the best interests of the California SNO-PARK program.

SEC. 4. Section 5091.20 of the Public Resources Code is amended to read:

5091.20. (a) The department shall print the permits required by this chapter and shall supervise the sale of the permits throughout the state.

(b) The department shall either distribute and sell the permits directly or contract with vendors according to rules and regulations adopted by the department. The authorized vendors shall be bonded in accordance with the rules and regulations and shall receive a stipulated commission for each permit sold.

SEC. 5. Section 5091.25 of the Public Resources Code is amended to read:

5091.25. (a) Proceeds from the sale of SNO-PARK parking permits shall be paid to the State Treasury to the credit of the Winter Recreation Fund, which is hereby created.

(b) The moneys in the Winter Recreation Fund shall be allocated, when appropriated, as follows:

(1) An amount equal to the actual and necessary costs incurred in the removal of snow from designated parking areas shall be paid to the Department of Transportation.

(2) An amount not to exceed 5 percent of total funds available shall be expended for administrative costs directly incurred through the implementation of this chapter.

(3) The balance of the funds shall be expended for the acquisition, lease, development, and maintenance of additional designated parking areas, for sanitation facilities, trail-head markings, and other facilities designed to promote the safety and well-being of persons engaged in winter recreation, and for grants to counties for the actual and necessary costs incurred in the removal of snow from designated parking areas.

SEC. 6. Item 3810-303-036 of Section 2 of the Budget Act of 1985, as added by Section 2 of Chapter 1300 of the Statutes of 1985, is amended 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, improvments, 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.
4. Any funds remaining from category (2), up to a total of $525,000, may be used or granted for Rim

of the Valley Trail related improvements within the City of Burbank. Any additional remaining funds, up to a total of $1,400,000 may be used or granted for open space, trail access, and improvements in the Rim of the Valley Trail Corridor, if at least $1,000,000 of which is granted, on an equal matching basis, to the City of Simi Valley or the Rancho Simi Recreation and Park District, or both, for the Hopetown Project within the Rim of the Valley Trail Corridor.

SEC. 7. Item 0840-101-036 is added to Section 2.00 of the Budget Act of 1987, to read:

0840-101-036—For local assistance, State Controller, payable from the Special Account for Capital Outlay 600,000

Provisions:

1. Funds appropriated in this item are for allocation to Los Angeles County for preliminary plans and working drawings to construct a child-sensitive and youth-oriented dependency court facility to be located in Monterey Park.

SEC. 8. Item 1760-302-036 is added to Section 2.00 of the Budget Act of 1987, to read:

1760-302-036—Capitol outlay, Department of General Services, payable from the Special Account for Capital Outlay 250,000

Schedule:

(a) Restoration of the Jesse M. Unruh Memorial Hearing Room (Room 4202, State Capitol Annex) 250,000

SEC. 9. Item 2660-301-036 is added to Section 2.00 of the Budget Act of 1987, to read:

2660-301-036—For capital outlay, Department of Transportation, payable from the Special Account for Capital Outlay 400,000

Schedule:

(1) Lyons Avenue and Interstate Highway 5 Interchange..... 400,000

SEC. 10. Item 3540-101-036 is added to Section 2.00 of the Budget Act of 1987, to read:

3540-101-036—For local assistance, Department of Forestry, payable from the Special Account for Capital Outlay 30,000
Schedule:
(1) Lassen County, Fire Training Center 30,000

SEC. 11. Item 3790-102-036 is added to Section 2 of the Budget Act of 1987, to read:

3790-102-036—For local assistance, Department of Parks and Recreation, payable from the Special Account for Capital Outlay 16,078,092
Schedule:
(1) City of Los Angeles—Los Angeles City Hall 300,000
(3) City of Los Angeles—Eagle Rock Library 238,000
(4) San Bernardino County, to correct an underallocation of the Community Parklands Bond Act of 1986 100,092
Schedule:
(a) Barstow Recreation and Park District 29,798
(b) Big Bear Valley Rec. & Park District 4,210
(c) Yucca Valley Rec. & Park District .. 29,542
(d) Hesperia Recreation and Park District 36,542
(5) Santa Clara County—Los Gatos Creek Trail 750,000
(6) Raisin City Recreation and Park District 20,000
(7) California Academy of Sciences.... 1,500,000
(8) City and County of San Francisco, South Beach Park 250,000
(9) City of Santa Paula, Santa Paula Community Center 250,000
(10) City of Los Angeles, Duane and Waterloo Street Ballpark Fencing 30,000
(11) City of San Diego, Balboa Park Administration Building 160,000

(12) County of San Diego, Spring Valley Revitalization Program and Avocado Park		950,000
(13) City of Colton, Library Historical Restoration Project		200,000
(14) City of Sacramento, Softball Park		60,000
(15) City of Oakland, Aquatic Biology Hall		250,000
(16) City of Oakland, Peralta Hacienda Park		490,000
(17) East Bay Regional Park District, Wool Ranch Property Acquisition		1,000,000
(18) City of Los Angeles, Harbor Lake Improvements		200,000
(19) County of Sacramento, Bowling Green Park		60,000
(20) County of Marin, Marin Wildlife Center		145,000
(21) City of Winters, City Hall Historic Refurbishment		130,000
(22) City of La Mirada, La Mirada Community Center		500,000
(23) City of San Buenaventura, Ventura Pier Refurbishment		500,000
(24) City of La Canada-Flintridge, Lanterman Home Refurbishment		500,000
(25) City of Bellflower, Thompson Pool Reconstruction		500,000
(26) City of San Mateo, Remodel two Senior Citizens Centers		430,000
(27) City of Westmoreland, Swimming Pool		200,000
(28) City of Kingsburg, Kingsburg Pool		400,000
(29) City of Dinuba, Vuich Bandstand		150,000
(30) City of Cudahy, Community Pool		250,000
(31) City of Los Angeles, Highland-Camrose Bungalows		500,000
(32) City of Maricopa, Maricopa Municipal Park (P,W,C)		300,000
(33) City of Dublin		100,000
(a) Shannon Park	50,000	
(b) East Dougherty Hills Park	50,000	
(34) City of San Ramon		25,000
(a) Athan Downs	25,000	

(35) City of Pleasanton		180,000
(a) Augustin Bernal Park Community Park	50,000	
(b) Senior Park Master Plan (P,W)	80,000	
(c) McKinley Park	50,000	
(36) City of Danville		50,000
(a) Baseball recreation facilities	50,000	
(37) Downey Municipal Pool (P,W,C)		400,000
(38) City of Anaheim, Child Day Care Center		200,000
(39) City of Garden Grove, Senior Center Expansion		150,000
(40) City of Santa Ana		160,000
(a) City Library, Children's Section (P,W,C)	160,000	
(41) City of San Diego		2,550,000
(a) Canyonside Community Park	500,000	
(b) Mission Bay Regional Park Sail Bay, Phase III	500,000	
(c) Beausoliel Property, acquisition	1,550,000	
(42) Nevada County Fair, acquisition of adjacent property		450,000
(43) City of Chowchilla, Chowchilla Community Center		500,000

SEC. 12. Item 3790-302-036 is added to Section 2.00 of the Budget Act of 1987, to read:

3790-302-036—For capital outlay, Department of Parks and Recreation, payable from the Special Account for Capital Outlay	300,000
Schedule:	
(1) Chino Hills State Park, Slaughter Canyon	300,000

SEC. 13. Item 3790-302-722 is added to Section 2.00 of the Budget Act of 1987, to read:

3790-302-722—For capital outlay, Department of Parks and Recreation, payable from the Parklands Fund of 1984	1,700,000
Schedule:	
(1) Candlestick State Park	1,700,000

SEC. 14. Item 3790-302-728 is added to Section 2.00 of the Budget Act of 1987, to read:

3790-302-728—For capital outlay, Department of Parks and Recreation, payable from the Recreation and Fish and Wildlife Enhancement Fund 740,000
Schedule:
(1) Lime Saddle State Park, Infrastructure Development..... 740,000

SEC. 15. Item 3810-302-036 is added to Section 2.00 of the Budget Act of 1987, to read:

3810-302-036—For capital outlay, Santa Monica Mountains Conservancy, payable from the Special Account for Capital Outlay 1,400,000
Schedule:
(1) Solstice Canyon acquisition..... 1,400,000

SEC. 16. Item 8570-101-036 is added to Section 2.00 of the Budget Act of 1987, to read:

8570-101-036—For local assistance, Department of Food and Agriculture, payable from the Special Account for Capital Outlay 500,000
Schedule:
(1) Rice Straw Disposal Research 500,000

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:

In order that urgently needed changes to the California SNO-PARK program may go into effect and be implemented prior to the upcoming ski season, that a report on the El Pueblo de Los Angeles State Historic Park may be commenced immediately, and that local assistance may be provided to various local entities at the earliest opportunity, it is necessary that this act take effect immediately.

CHAPTER 1409

An act to amend Section 1505 of the Health and Safety Code, and to amend Section 1370 of the Penal Code, relating to care facilities.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 1505 of the Health and Safety Code is amended to read:

1505. This chapter does not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(d) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

(e) Any child day care facility, as defined in Section 1596.750.

(f) Any facility 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 the church or denomination.

(g) Any school dormitory or similar facility determined by the department.

(h) Any house, institution, hotel, homeless shelter, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

(i) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(j) Any alcoholism recovery facility as defined by Section 11834.11.

(k) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if the arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the state department.

(*l*) Any similar facility determined by the director.

SEC. 2. 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) When directing that the defendant be confined in a state hospital pursuant to this subdivision, the court shall select the hospital in accordance with the policies established by the State Department of Mental Health.

(4) 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.

CHAPTER 1410

An act to add Section 25.5 to the Storm Water District Act of 1909 (Chapter 222 of the Statutes of 1909), relating to water facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987.]

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

SECTION 1. (a) The Legislature finds that flood control planning is presently under way in Kern County for the development of a flood control project for Caliente Creek. The United States Army Corps of Engineers, the Kern County Water Agency, Kern Delta Water District, Arvin-Edison Water Storage District, and the Lamont Storm Water District of Kern County, among other entities, are active participants in that planning. The participation of the Lamont Storm Water District of Kern County, which is essential to the successful completion of the project, has been rendered impossible by reason of the district's inability, under the law as stated by the court in American River Flood Control District v. Sayre, 136 Cal. App. 3d 342, to secure funds by application of the existing district assessment procedures. This section provides the necessary authority for the district to adopt an alternative method of valuation which would comply with the dictates of the court.

(b) The district's problem is not common to other storm water districts. The Legislature therefore finds and declares that a special law is necessary with respect to the Lamont Storm Water District of Kern County, that Section 2 of this act is needed to meet the special circumstances that exist within the district, and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution.

SEC. 2. Section 25.5 is added to the Storm Water District Act of 1909 (Chapter 222 of the Statutes of 1909), to read:

Sec. 25.5. (a) This section applies only to the Lamont Storm Water District of Kern County (hereafter referred to as the district). This section shall become operative only if the Board of Supervisors of Kern County and the board of trustees of the district adopt a resolution accepting the provisions of this section.

(b) (1) The Board of Supervisors of Kern County, at the request of the board of trustees of the district, shall assess the property within the district, apportioned on the basis of a schedule of benefit valuation adopted pursuant to subdivisions (c), (d), (e), and (f) for the purpose of raising the sum estimated by the board of trustees to be necessary for the operations of the district.

(2) This section supersedes the property valuation procedures specified in Section 25. However, except with respect to valuation, Section 25 remains applicable to the district.

(c) Annually, on or before the first day of February and prior to its adoption of a valuation based upon benefits under this section, the board of trustees shall appoint three commissioners, one of whom shall be a civil engineer, to recommend adoption of a schedule of valuations of each parcel of property within the district otherwise

subject to assessment. The valuations shall reflect the commissioners' determination of the benefit to the parcel bestowed upon it by the operations of the district. Before entering upon the discharge of their duties, the commissioners shall each take and subscribe an oath to perform their duties to the best of their ability. The commissioners shall, within 60 days following the date of their appointment, proceed to view the lands within the district and determine the proportional benefits. The commissioners shall receive compensation for their services in such amount as the board of trustees may determine. The compensation of the commissioners shall be considered as an ordinary expense of the district.

(d) Prior to their adoption of a valuation based upon benefits under this section, the board of trustees shall hold a public hearing at which owners of property or residents of the district may appear and be heard. Notice of the hearing shall be given by the clerk by posting at the district office at least 15 days prior to the hearing, stating the purpose, time, and place of hearing, together with publication in a newspaper of general circulation in Kern County at least three times, not sooner than three days between publications, and the last publication to be at least 10 days, but not more than 20 days, before the hearing. Notice shall also be given by mail to each landowner as shown on the records of the assessor and shall be mailed at least 20 days prior to the hearing.

(e) At the hearing, evidence shall be introduced by the commissioners and may be introduced by landowners or residents within the district as to the valuation schedules to be adopted by the board of trustees.

(f) At the conclusion of the hearing, or, as it may be continued from time to time, the board of trustees shall adopt a schedule of valuations on a parcel, class of improvement to property, use of property basis, or any combination thereof, within the boundaries of the district which shall reflect the benefit bestowed by the operations of the district upon the property assessed.

SEC. 3. Pursuant to Section 13466 of the Water Code, the Department of Water Resources may make loans from the Water Conservation and Groundwater Recharge Account in the 1986 Water Conservation and Water Quality Bond Fund, in accordance with the Water Conservation and Water Quality Bond Law of 1986, (Chapter 6.1 (commencing with Section 13450) of Division 7 of the Water Code), and regulations adopted pursuant to that law, to the following local public agencies for purposes of financing proposed groundwater recharge facilities and feasibility studies therefor:

Agency	Project
Alta Irrigation District	Smith Mountain Project
Antelope Valley-East Kern Water Agency	Rosamond/Lancaster In-Lieu Groundwater Recharge Project
Antelope Valley-East Kern Water Agency	Quartz Hill/Lancaster In-Lieu Groundwater Recharge Project
Big Bear City Community Services District	Van Dusen Recharge Project
Cambria Community Services District	San Simeon Creek Diversion and Storage Project
Cawelo Water District	Famoso In-Lieu Groundwater Recharge Project
Central San Joaquin Water District	New Melones In-Lieu Groundwater Recharge Project
City of Morro Bay	Coastal Diversion and Storage In-Lieu Groundwater Recharge Project
City of Reedley Water System	Acquisition and Development of Groundwater Recharge Basin "A"

County of Ventura Public Works	Hill Canyon Waste Water Reclamation Project
Cutler-Orosi Joint Powers Waste-water Agency	Waste Water Reclamation Project
Eastside Water District	Groundwater Recharge Project No. 1
Goleta Water District	Instream Groundwater Recharge Facilities
Goleta Water District	Injection Well Field Development
Hi-Desert Water District	Warren Basin Recharge Project
Indian Wells Valley Water District	Intermediate Area Recharge and Storage Project
Kern County Water Agency	Kern Water Bank Local Elements
Kern County Water Agency	Southeast Feeder Pipeline-Improvement District No. 4
Kern County Water Agency	Berrenda Mesa Spreading Ground
Kern County Water Agency	Northwest Feeder Pipeline Project
Kern County Water Agency	Southwest Feeder Pipeline and Conjunctive Use Facilities
Marina County Water District	Salinas Valley Sea Water Intrusion Project

Monterey County Flood Control and Water Conservation District	Castroville Irrigation Project
North of the River Municipal Water District	Oildale Reclaimed Water Project
Orange County Water District	Santiago/Burris Pump and Pipeline Project
Rancho California Water District	Construction and Development of Water Transmission Main and Recharge Area
Rosedale-Rio Bravo Water Storage District	Flood and Surplus Water Capture Project
San Bernardino Valley Municipal Water District	Seven Oaks Water Storage Project
San Luis Obispo County	County Service Area No. 9 Collection, Treatment, and Disposal Facilities
San Simeon Acres Community Services District	Pico Creek Sea Water Intrusion Barrier
Santa Clara Valley Water District	Maple Avenue Pipeline, Ponds and Associated Facilities Project
Semitropic Water Storage District/ Pond-Poso Irrigation District	Pond-Poso Improvement District In-Lieu Project

Stockton East Water District	New Melones In-Lieu Groundwater Recharge Project
Twenty-Nine Palms Water District	Artificial Recharge, Forty-Nine Palms Canyon Project
United Water Conservation District	Vern Freeman Diversion Project
Upper San Gabriel Valley Municipal Water District	Main Basin Groundwater Recharge Project
West Kern Water District	West Kern Groundwater Recharge Project

SEC. 4. Pursuant to Section 13466 of the Water Code, the Department of Water Resources is hereby authorized to make loans from the Water Conservation and Groundwater Recharge Account in the 1986 Water Conservation and Water Quality Bond Fund, in accordance with the Water Conservation and Water Quality Bond Law of 1986 (Chapter 6.1 (commencing with Section 13450) of Division 7 of the Water Code), to the following local agencies for purposes of financing proposed water conservation projects and feasibility studies therefor:

Local Agency	Project
(1) Applegate-Clipper Gap Community Water District	1987 Upgrade Project
(2) Aromas Water District	Pinetree Tank
(3) Bear Valley Water District	Purchase and Const. Irr Wrk
(4) Bella Vista Water District ..	Old Oregon Trl Reservoir
(5) Bella Vista Water District ..	Backwash Recovery
(6) Big Bear City Community Services District	Meter and Retrofit Prog.
(7) Browns Valley Irrigation District.....	Olive Hill PPLines and PWrhse
(8) Browns Valley Irrigation District.....	Upper Main Pipeline
(9) Calaveras County Water District.....	Wilson Reservoir Main Rpl
(10) Cawelo Water District	Techite Pipe Replacement
(11) City of Big Bear	Big Bear Main Replacement

(12) City of Folsom	Natomas Ditch Replacement
(13) City of Hawthorne	Rpl Wtr Maints
(14) City of Hollister	Hollister Metering Proj
(15) City of Jackson	Imp Jackson Raw Wtr Syst
(16) City of Rio Dell	Rio Dell Wtr Syst Imprvm
(17) City of Santa Cruz Water Department	No Coast Main Replacement
(18) City of Sierra Madre	Wtr Main Rpl Phase IV
(19) City of Taft	Fire Wtr Syst Project
(20) City of West Sacramento	West Sac Main Replacmnt
(21) Descanso Community Water District	Wtr Main Rpr and Retrofit
(22) East Bay Municipal Utility District	Chevron Wst Wtr Rec Proj
(23) East Niles Community Services District	Escsd Storage Pond Imprv
(24) East Orange County Water District	Chapman Av Trans. Main
(25) El Dorado Irrigation District	No Fork Cosumnes Ditch
(26) El Dorado Irrigation District	Crawford Ditch
(27) El Dorado Irrigation District	Gold Hill Ditch
(28) El Dorado Irrigation District	Replace Water Meters
(29) Glide Water District	Tailwater Recycling Sys
(30) Golden Valley Municipal Water District	GBMWD Rehab Project
(31) Grizzly Flats Community Services District	Pipe Eagle Ditch
(32) Gustine Drainage District	North Drain Wtr Tbl Reg
(33) Hills Valley Irrigation District-ID#1	ID#1 Distribution Syst
(34) Imperial Irrigation District	Line South Alamo Canal
(35) Imperial Irrigation District	Acacia Concrete Lining
(36) Imperial Irrigation District	Sperber Outlet
(37) Imperial Irrigation District	Z Reservoir
(38) Indian Wells Valley Water District	Ridgecrest Hgts Cons Impr
(39) Joshua Basin Water District	C-2 Reservoir Replacement
(40) Julian Community Services District	Rpl and Rehab Distribution Ln
(41) Los Carneros Water District	Carneros Irr Conv Project
(42) Mendocino City Community Services District	Ulf Toilets and Meters

(43) Mesa Consolidated Water District	Meter Stations—42" Line
(44) Mission Hills Community Services District	Mission Hlscsd Desalin
(45) Modesto Irrigation District	Mid Lateral B Piping
(46) Muir Beach Community Services District	Muir Bch Wtr Cons Project
(47) Orange Cove Irrigation District	Imp Dist 1AE Pipeline
(48) Orange Cove Irrigation District	Imp Dist 12 Pipeline
(49) Orange Cove Irrigation District	Imp Dist 10 Pipeline
(50) Orange Cove Irrigation District	Imp Dist 9 Pipeline
(51) Otay Water District	Up and Roll Res Cover and Rehab
(52) Palm Ranch Irrigation District	47th St Main Replacement
(53) Paradise Irrigation District	Magalia Res Rehab
(54) Patterson Water District	PWD Main/Lateral Rehab
(55) Princeton/Cordora/Glenn Irrigation District	Razor Lateral Rec'ry Sys
(56) Ramona Municipal Water District	Santa Maria Reclamation
(57) Ramona Municipal Water District	RMWD Dist Syst Improvement
(58) Riverview Water District	Riverview Pipeline Rplcmt
(59) San Bernardino Valley Municipal Water District	Riverside Highland Wc Reh
(60) Semitropic Water Storage District Pond	Intake Canal Lining
(61) Solano Irrigation District	Joint Use Operations Res
(62) Solano Irrigation District	Putah So Canal Measur Sta
(63) Solano Irrigation District	Sid Vaughn Canal Lining
(64) Tuolumne County	Shaws Flat II
(65) Tuolumne Regional Water District	Upper Matelot Dtch Pipeng
(66) Twenty-Nine Palms Water District	Wtr Main and Meter Rplcment
(67) Walnut Valley Water District	Puente Basin Recycled Wtr

SEC. 5. Loans from the 1986 Water Conservation and Water Quality Bond Fund authorized in Sections 3 and 4 of this act shall be made only from moneys appropriated from that fund by Item 3860-101-744 of the Budget Act of 1987 or by other act of the

Legislature.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the Water Conservation and Water Quality Bond Law of 1986 to be implemented as soon as possible so that vitally needed water conservation projects and groundwater recharge facilities may be placed into service at the earliest possible time, and to ensure that needed flood control facilities can be completed on the Caliente Creek in Kern County as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1411

An act to amend Section 20021 of, and to add Section 20019.37 to, the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 20019.37 is added to the Government Code, to read:

20019.37. "Local safety member" also includes any harbor or port police officer, employed by a contracting agency, who is a peace officer as defined in subdivision (h) of Section 830.31 of the Penal Code and whose principal duties consist of active law enforcement of the laws contained in Chapter 5 (commencing with Section 650) of Division 3 of the Harbors and Navigation Code, the rules and regulations of the California Department of Boating and Waterways, and Chapter 2 (commencing with Section 9850) of Division 3.5 of the Vehicle Code.

This section shall not apply to the employees of any contracting agency, nor to any contracting agency, unless and until the contracting agency elects to be subject to this section by amendment to its contract with the board, pursuant to Section 20461.5, or by express provision within its contract with the board.

SEC. 2. Section 20021 of the Government Code is amended to read:

20021. "Local firefighter" means any officer or employee of a fire department of a contracting agency, except one 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, fire prevention, fire training, or fire investigation service even though that employee

is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active firefighting, fire prevention, fire training, or fire investigation service, but not excepting persons employed and qualifying as firefighters or equal or higher rank, irrespective of the duties to which they are assigned.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1412

An act to add Section 201.3 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 201.3 is added to the Revenue and Taxation Code, to read:

201.3. Property which is exclusively devoted to public purposes and is owned by a nonprofit entity, in which a chartered city with a population of over 750,000 and located in a county of the third class has the sole ownership interest shall be deemed to be property owned by the chartered city.

This section shall not be construed to exempt from ad valorem property taxation property of the chartered city located outside of its boundaries.

SEC. 2. The Legislature, in enacting Section 1 of this act, finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution due to the following unique circumstances:

The City of San Diego has created a nonprofit public benefit corporation the sole ownership interest in which is held by the city. The property of that nonprofit corporation is used exclusively to provide services, goods, or equipment to the city and other public entities within the County of San Diego for their interest and benefit. The unique structure and operational activities of the nonprofit corporation do not permit a total exemption from taxation of its property under the current exemptions available to nonprofit corporations which are owned by or operated for the interest and

benefit of public entities, notwithstanding the fact that the nonprofit corporation is devoted to public purposes and is owned exclusively by a public entity. This act makes a classification or exemption of property for purposes of ad valorem taxation within the meaning of Section 2229 of the Revenue and Taxation Code.

SEC. 3. This act shall apply to exemption claims filed for the 1988–89 fiscal year and fiscal years thereafter.

CHAPTER 1413

An act to amend Sections 2222, 2307, 2468, and 2497 of, and to add Section 2497.1 to the Business and Professions Code, relating to podiatry, and making an appropriation therefore.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

I am reducing the appropriation contained in Section 6 of Senate Bill No. 201 from $30,000 to $17,000

I am taking this action because the Board of Podiatric Medicine has indicated that $17,000 is the appropriate funding level to implement this program.

With this reduction, I approve Senate Bill No. 201.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 2222 of the Business and Professions Code is amended to read:

2222. The California Board of Podiatric Medicine shall enforce and administer this article as to podiatry certificate holders. Any acts of unprofessional conduct or other violations proscribed by this chapter are applicable to licensed podiatrists and wherever the Division of Medical Quality or a medical quality review committee or a panel of a committee is vested with the authority to enforce and carry out this chapter as to licensed physicians and surgeons, the California Board of Podiatric Medicine also possesses that same authority as to licensed podiatrists.

The California Board of Podiatric Medicine may order the denial of an application or issue a certificate subject to conditions as set forth in Section 2221, or order the revocation, suspension, or other restriction of, or the modification of that penalty, and the reinstatement of any podiatrist's certificate within its authority as granted by this chapter. For these purposes, the California Board of Podiatric Medicine shall exercise the powers granted and be governed by the procedures set forth in this chapter.

SEC. 2. Section 2307 of the Business and Professions Code is amended to read:

2307. A person whose certificate has been revoked or suspended or who has been placed on probation may petition the Division of Medical Quality for reinstatement or modification of penalty,

including modification or termination of probation, after a period of not less than one year has elapsed from the effective date of the decision ordering such disciplinary action.

The petition shall state such fact as may be required by the division. The petition shall be accompanied by at least two verified recommendations from physicians and surgeons licensed by the board who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed. The petition may be heard by the division, or the division may assign the petition to a medical quality review committee for hearing by a panel composed of seven members specifically constituted for this purpose. The panel shall consist of four physicians, one nonphysician licentiate of a healing arts board, one public member, and one member who may be either a public member or a nonphysician licentiate of a healing arts board. For the purposes of such a hearing, five members of a panel shall constitute a quorum. If for any reason, a seven-member panel from one committee cannot be assigned, members from other committees may be assigned to the panel for the purpose of the hearing.

The division or a panel hearing the petition may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the division or panel finds necessary.

The division or panel reinstating a certificate or modifying a penalty may impose such terms and conditions as it deems necessary. To reinstate a revoked certificate requires the affirmative vote of at least five members of the division or of the panel hearing the petition, as the case may be. To otherwise reduce a penalty or modify probation requires the affirmative vote of at least four members of the division or of the panel hearing the petition, as the case may be. A decision by the division or a panel shall be final.

No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. No petition shall be considered while there is an accusation or petition to revoke probation pending against the person. The division may deny without a hearing or argument any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section.

This section is applicable to and may be carried out by the California Board of Podiatric Medicine, except that no petition may be assigned to a medical quality review committee or a panel of that committee for hearing. In lieu of two verified recommendations from physicians and surgeons, the petition shall be accompanied by at least two verified recommendations from podiatrists licensed by the board who have personal knowledge of the activities of the

petitioner since the date the disciplinary penalty was imposed. The petition shall require the affirmative vote of a majority of those members of the board present at a hearing, who constitute at least a quorum, to act on any petition. If an affirmative vote is not cast on any petition, it is deemed to be denied.

SEC. 3. Section 2468 of the Business and Professions Code is amended to read:

2468. Notice of each meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code). Subcommittee meetings need not be advertised.

SEC. 4. Section 2497 of the Business and Professions Code is amended to read:

2497. (a) The board may order the denial of an application for, or the suspension of, or the revocation of, or the imposition of probationary conditions upon, a certificate to practice podiatric medicine for any of the causes set forth in Article 12 (commencing with Section 2220) in accordance with Section 2222.

(b) The board may hear all matters, including but not limited to, any contested case or may assign any such matters to an administrative law judge. The proceedings shall be held in accordance with Section 2230. If a contested case is heard by the board itself, the administrative law judge who presided at the hearing shall be present during the board's consideration of the case and shall assist and advise the board.

SEC. 5. Section 2497.1 is added to the Business and Professions Code, to read:

2497.1. (a) It is the intent of the Legislature that the Board of Podiatric Medicine shall seek ways and means to identify and rehabilitate doctors of podiatric medicine whose competency is impaired due to abuse of dangerous drugs or alcohol, so that they may be treated and returned to the practice of podiatric medicine in a manner which will not endanger the public health and safety.

(b) The Board of Podiatric Medicine shall establish and administer a diversion program for the rehabilitation of doctors of podiatric medicine whose competency is impaired due to the abuse of drugs or alcohol. The board may contract with any other state agency, a private organization, or a podiatric medical association with statewide representation to perform its duties under this section. The board may establish one or more diversion evaluation committees to assist it in carrying out its duties under this section. As used in this section, "committee" means a diversion evaluation committee.

(c) (1) Any diversion evaluation committee established by the board shall have at least three members. In making appointments to a committee the board shall consider the appointment of persons who are either recovering from substance abuse and have been clean and sober for at least three years immediately prior to their

appointment or who are knowledgeable in the treatment and recovery of substance abuse. The board also shall consider the appointment of a physician and surgeon who is board-certified in psychiatry.

(2) Appointments to a committee shall be by the affirmative vote of a majority of members appointed to the board. Each appointment shall be at the pleasure of the board for a term not to exceed four years. In its discretion, the board may stagger the terms of the initial members so appointed.

(3) A majority of the members of a committee shall constitute a quorum for the transaction of business. Any action requires an affirmative vote of a majority of those members present at a meeting constituting at least a quorum. Each committee shall elect from its membership a chairperson and a vice chairperson. Notwithstanding Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public meetings, a committee may convene in closed session to consider matters relating to any doctor of podiatric medicine applying for or participating in a diversion program, and a meeting which will be convened entirely in closed session need not comply with Section 11125 of the Government Code. A committee shall only convene in closed session to the extent it is necessary to protect the privacy of an applicant or participant. Each member of a committee shall receive a per diem and shall be reimbursed for expenses as provided in Section 103.

(4) Each committee has the following duties and responsibilities:

(A) The evaluation of doctors of podiatric medicine who request participation in the program and to consider any recommendations from professional consultants on the admission of applicants to the diversion program.

(B) The review and designation of treatment facilities to which doctors of podiatric medicine in the diversion program may be referred.

(C) The receipt and review of information concerning doctors of podiatric medicine participating in the program.

(D) To call meetings as necessary to consider the requests of doctors of podiatric medicine to participate in the diversion program, to consider reports regarding participants in the program, and to consider any other matters referred to it by the board.

(E) The consideration of whether each participant in the diversion program safely continues or resumes the practice of podiatric medicine.

(F) To set forth in writing a treatment program for each participant in the diversion program with requirements for supervision and surveillance.

(G) To hold a general meeting at least twice a year, which shall be open and public, to evaluate the diversion program's progress, to prepare reports to be submitted to the board, and to suggest proposals for changes in the diversion program.

(5) For the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, any member of a committee shall be considered a public employee. No board or committee member, contractor, or agent thereof, shall be liable for any civil damages because of acts or omissions which may occur while acting in good faith in a program established pursuant to this section.

(d) Criteria for acceptance into the diversion program shall include all of the following: (1) the applicant shall be licensed as a doctor of podiatric medicine by the board and shall be a resident of California; (2) the applicant shall be found to abuse dangerous drugs or alcoholic beverages in a manner which may affect his or her ability to practice podiatric medicine safely or competently; (3) the applicant shall have voluntarily requested admission to the program or shall be accepted into the program in accordance with terms and conditions resulting from a disciplinary action; (4) the applicant shall agree to undertake any medical or psychiatric examination ordered to evaluate the applicant for participation in the program; (5) the applicant shall cooperate with the program by providing medical information, disclosure authorizations, and releases of liability as may be necessary for participation in the program; and (6) the applicant shall agree in writing to cooperate with all elements of the treatment program designed for him or her. An applicant may be denied participation in the program if the board, its delegatee, or a committee, as the case may be, determines that the applicant will not substantially benefit from participation in the program or that the applicant's participation in the program creates too great a risk to the public health, safety, or welfare.

(e) A participant may be terminated from the program for any of the following reasons: (1) the participant has successfully completed the treatment program; (2) the participant has failed to comply with the treatment program designated for him or her; (3) the participant fails to meet any of the criteria set forth in subdivision (d); or (4) it is determined that the participant has not substantially benefited from participation in the program or that his or her continued participation in the program creates too great a risk to the public health, safety, or welfare. Whenever an applicant is denied participation in the program or a participant is terminated from the program for any reason other than the successful completion of the program, and it is determined that the continued practice of podiatric medicine by that individual creates too great a risk to the public health and safety, that fact shall be reported to the executive officer of the board and all documents and information pertaining to and supporting that conclusion shall be provided to the executive officer. The matter may be referred for investigation and disciplinary action by the board. Each doctor of podiatric medicine who requests participation in a diversion program shall agree to cooperate with the recovery program designed for him or her. Any failure to comply with that program may result in termination of participation in the program. The board shall inform each participant in the program of

the procedures followed in the program, of the rights and responsibilities of the doctor of podiatric medicine in the program, and of the possible results of noncompliance with the program.

(f) In addition to the criteria and causes set forth in subdivisions (d) and (e), the board may set forth in its regulations additional criteria for admission to the program or causes for termination from the program.

(g) All board and committee records and records of proceedings and participation of a doctor of podiatric medicine in a program shall be confidential and are not subject to discovery or subpoena.

(h) A fee may be charged for participation in the program.

(i) If the board contracts with any other entity to carry out this section, the executive officer of the board, or his or her delegatee, shall review the activities and performance of the contractor on a biennial basis. As part of this review the board shall review files of participants in the program. However, the names of participants who entered the program voluntarily shall remain confidential, except when the review reveals misdiagnosis, case mismanagement, or noncompliance by the participant.

(j) Participation in a diversion program shall not be a defense to any disciplinary action which may be taken by the board. This section does not preclude the board from commencing disciplinary action against a doctor of podiatric medicine who is terminated unsuccessfully from the program under this section. That disciplinary action may not include as evidence any confidential information.

SEC. 6. The sum of thirty thousand dollars ($30,000) is hereby appropriated from the Podiatry Fund to the California Board of Podiatric Medicine for the purpose of implementing the diversion program provided for in Section 2497.1 of the Business and Professions Code.

CHAPTER 1414

An act to add Section 593g to the Penal Code, and to amend Section 4417 of the Public Resources Code, relating to forestry.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 593g is added to the Penal Code, to read:

593g. Every person who, with the intent to use it in a violation of Section 593a, possesses any iron, steel, ceramic, or other substance sufficiently hard to injure saws or wood manufacturing or processing equipment, shall be punished by imprisonment in the county jail not to exceed one year.

This section shall only become operative if Senate Bill 1176 of the 1987–88 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 1988.

SEC. 2. Section 4417 of the Public Resources Code is amended to read:

4417. (a) Except as provided in subdivision (b) or (c), a reward of up to five thousand dollars ($5,000) shall be paid out of any state funds which are made available to the department for fire protection to any person, other than a regularly paid firefighter, peace officer, or agent or employee of the department, whose information leads to the arrest and conviction, or commitment to a public facility, of any person who willfully and maliciously sets fire to, or who attempts to willfully and maliciously set fire to, any property which is included within any state responsibility area as established under Article 3 (commencing with Section 4125) of Chapter 1.

(b) If the fire, or attempt to set a fire, results in death or great bodily injury to anyone, including fire protection personnel, a reward of up to ten thousand dollars ($10,000) shall be paid.

(c) If the fire causes substantial structural damage, an enhanced reward of up to ten thousand dollars ($10,000) shall be paid.

(d) The reward may be paid on the initiative of the department or upon application by any person qualifying therefor. One reward of up to five thousand dollars ($5,000) shall be paid under this subdivision (a), or ten thousand dollars ($10,000) under subdivision (b), or ten thousand dollars ($10,000) under subdivision (c), as the case may be, with respect to the same event or series of events involving the same defendant or defendants. If the department determines that more than one person is eligible for a reward arising out of information relating to the same event or series of events, the reward shall be divided among those persons, as determined by the department, taking into consideration the significance of the information contributed by each of those persons. The department may establish a program to preserve the anonymity of any person providing information and may pay a reward under that program.

(e) Rewards paid under this section shall be considered an emergency fire suppression and detection expenditure for budgeting purposes.

SEC. 3. This act shall become operative only if S.B. 1176 of the 1987–88 Regular Session is also chaptered.

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 1415

An act to amend Sections 25532, 25533, 25534, 25535, 25537, and 25539 of, and to add Article 1 (commencing with Section 25500) to Chapter 6.95 of Division 20 of, the Health and Safety Code, relating to hazardous materials, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987]

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

SECTION 1. Article 1 (commencing with Section 25500) is added to Chapter 6.95 of Division 20 of the Health and Safety Code, to read:

Article 1. Business and Area Plans

SEC. 2. Section 25532 of the Health and Safety Code is amended to read:

25532. Unless the context indicates otherwise, the following definitions govern the construction of this article:

(a) "Acutely hazardous material" means any chemical designated an extremely hazardous substance which is listed in Appendix A of Part 355 of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations.

(b) "Acutely hazardous materials accident risk" means a potential for the release of an acutely hazardous material into the environment which could produce a significant likelihood that persons exposed may suffer acute health effects resulting in significant injury or death.

(c) "Administering agency" means the department, office, or other agency of a county or city which is designated pursuant to Section 25502 to implement this chapter.

(d) "Handler" means any business which handles an acutely hazardous material, except where all of the acutely hazardous materials present at the business are handled in accordance with a removal or remedial action taken pursuant to the Carpenter-Presley-Tanner Hazardous Substance Account Act (Chapter 6.8 (commencing with Section 25300)).

(e) "Modified facility" means an addition or change to a facility or business which results in either a substantial increase in the amount of acutely hazardous materials handled by the facility or business, or a significantly increased risk in handling an acutely hazardous material, as determined by the administering agency. "Modified facility" does not include an increase in production up to the facility's existing operating capacity or an increase in production levels up to the production levels authorized in a permit granted pursuant to Section 42300.

(f) "Qualified person" means a person who is qualified to attest, at a minimum, to the validity of the hazard and operability studies performed pursuant to Section 25534, and the relationship between the corrective steps taken by the handler following the hazard and operability studies and those hazards which were identified in the studies.

(g) "Risk management and prevention program" or "RMPP" means all of the administrative and operational programs of a business which are designed to prevent acutely hazardous materials accident risks, including, but not limited to, programs which include design safety of new and existing equipment, standard operating procedures, preventive maintenance programs, operator training and accident investigation procedures, risk assessment for unit operations, or operating alternatives, emergency response planning, and internal or external audit procedures to ensure that these programs are being executed as planned.

SEC. 3. Section 25533 of the Health and Safety Code is amended to read:

25533. (a) On or before September 1, 1987, the Office of Emergency Services shall develop an acutely hazardous materials registration form to be completed by the owner or operator of each business in the state which, at any time, handles any acutely hazardous material. Except as provided in Section 25536, on or before January 1, 1988, any business which handles acutely hazardous materials in the amounts specified in subdivision (a) of Section 25536 shall file the registration form with the administering agency. The Office of Emergency Services may adopt appropriate regulations to implement the requirements of this section.

(b) The acutely hazardous materials registration form shall include, but is not limited to, all of the following information:

(1) The information included in the business plan prepared pursuant to Section 25504.

(2) A general description of the processes and principal equipment involved in the handling of the acutely hazardous materials.

(c) Within 30 days of any one of the following events, any business subject to this section shall submit to the administering agency an amendment to the registration form:

(1) Any handling of an acutely hazardous material which was not mentioned on the registration form.

(2) Any material or substantial alterations or additions to the business or activity which require changes in the risk management program that are different from, or absent in, the present program.

(3) Change of business address.

(4) Change of business ownership.

(5) Change of business name.

(d) Any business which submits a certified risk management and prevention program pursuant to Section 25534 shall implement the approved risk management and prevention program.

SEC. 4. Section 25534 of the Health and Safety Code is amended to read:

25534. (a) After receiving an acutely hazardous material registration form filed pursuant to Section 25533, the administering agency may require the submission of an RMPP if the administering agency determines that the handler's operation may present an acutely hazardous materials accident risk. The handler shall prepare the RMPP in accordance with subdivision (c). The RMPP shall be prepared within 12 months following the request made by the administering agency pursuant to this section.

(b) In addition to any requirements imposed pursuant to subdivision (a), an owner or operator of a new or modified facility which will be used for the handling of acutely hazardous materials and which will commence operations on or after January 1, 1988, in the case of a new facility or commence the operations which will be modified on or after January 1, 1988, in the case of an existing facility, shall prepare a risk management and prevention program.

(c) The RMPP shall include all of the following elements:

(1) A description of each accident involving acutely hazardous materials which has occurred at the business or facility within three years from the date of the request made pursuant to subdivision (a), together with a description of the underlying causes of the accident and the measures taken, if any, to avoid a recurrence of a similar accident.

(2) A report specifying the nature, age, and condition of the equipment used to handle acutely hazardous materials at the business or facility and any schedules for testing and maintenance.

(3) Design, operating, and maintenance controls which minimize the risk of an accident involving acutely hazardous materials.

(4) Detection, monitoring, or automatic control systems to minimize potential acutely hazardous materials accident risks.

(5) A schedule for implementing additional steps to be taken by the business, in response to the findings of the assessment performed pursuant to subdivision (d), to reduce the risk of an accident involving acutely hazardous materials. These actions may include any of the following:

(A) Installation of alarm, detection, monitoring, or automatic control devices.

(B) Equipment modifications, repairs, or additions.

(C) Changes in the operations, procedures, maintenance schedules, or facility design.

(6) Auditing and inspection programs designed to allow the handler to confirm that the risk management and prevention program is effectively carried out.

(7) Recordkeeping procedures for the risk management and prevention program.

(d) The RMPP shall be based upon an assessment of the processes, operations, and procedures of the business, and shall consider all of the following:

(1) The results of a hazard and operability study which identifies the hazards associated with the handling of an acutely hazardous material due to operating error, equipment failure, and external events, which may present an acutely hazardous materials accident risk.

(2) For the hazards identified in the hazard and operability studies, an offsite consequence analysis which, for the most likely hazards, assumes pessimistic air dispersion and other adverse environmental conditions.

(e) The business shall submit to the administering agency any additional supporting technical information deemed necessary by the administering agency to clarify information submitted pursuant to subdivision (c).

(f) A handler shall maintain all records concerning a risk management and prevention program for a period of at least five years.

(g) The risk management and prevention program shall identify, by title, all personnel at the business who are responsible for carrying out the specific elements of the RMPP, and their respective responsibilities, and the RMPP shall include a detailed training program to ensure that those persons are able to implement the RMPP.

(h) The handler shall review the risk management and prevention program, and shall make necessary revisions to the RMPP at least every three years, but, in any event, within 60 days following a modification which would materially affect the handling of an acutely hazardous material.

(i) Any person who handles acutely hazardous materials and who owns or operates two or more business facilities which are substantially identical may prepare a single generic risk management and prevention program applicable to all those facilities if the handling of the acutely hazardous materials is substantially similar at all of those facilities.

(j) The risk management and prevention program, and any revisions required by subdivision (h), shall be certified as complete by a qualified person and the facility operator.

(k) Except as specified in subdivision (d) of Section 25535, the handler shall implement all activities and programs specified in the risk management and prevention program within one year following the certification made pursuant to subdivision (j). Implementation of the risk management and prevention program shall include carrying out all operating, maintenance, monitoring, inventory control, equipment inspection, auditing, recordkeeping, and training programs as required by the RMPP. The administering agency may grant an extension of this deadline upon a showing of good cause.

(*l*) The Office of Emergency Services shall adopt, and publish for distribution, guidelines for the preparation and submission of risk management and prevention programs. In preparing the guidelines

for hazard and operability studies, the office shall, at a minimum, base its procedural recommendations on those set forth in the 1985 Guidelines for Chemical Hazard Evaluation Procedures, prepared by the Center for Chemical Process Safety of the American Institute of Chemical Engineers.

SEC. 5. Section 25535 of the Health and Safety Code is amended to read:

25535. (a) An owner or operator of a facility submitting an RMPP pursuant to Section 25534 shall submit the RMPP to the administering agency after the RMPP is certified as complete by a qualified person and the facility operator. The administering agency may authorize the air pollution control district or air quality management district in which the facility is located to conduct a technical review of the RMPP. If, after review, the administering agency determines that the handler's RMPP is deficient in any way, the administering agency shall notify the handler of these defects. The handler shall submit a corrected RMPP within 60 days of the notice.

(b) Upon implementation of a risk management and prevention program pursuant to subdivision (k) of Section 25534, the handler shall notify the administering agency that the RMPP has been implemented and shall summarize the steps taken in preparation and implementation of the RMPP.

(c) The handler shall continue to carry out the program and activities specified in the risk management and prevention program at the business after the administering agency has been notified pursuant to subdivision (b).

(d) The owner or operator shall implement all programs and activities in the RMPP before operations commence, in the case of a new facility, or before any new activities involving acutely hazardous materials are taken, in the case of a modified facility.

SEC. 6. Section 25537 of the Health and Safety Code is amended to read:

25537. The administering agency shall inspect every business required to be registered pursuant to Section 25534 at least once every three years to determine whether the business is in compliance with this article.

The requirements of this section do not alter or affect the immunity provided a public entity pursuant to Section 818.6 of the Government Code.

SEC. 7. Section 25539 of the Health and Safety Code is amended to read:

25539. The administering agency, in implementing this article, shall, upon request, involve and cooperate with local and state government officials, emergency planning committees, and professional associations.

SEC. 8. 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. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to better protect the public health and safety and the environment from the dangers of an acutely hazardous materials accident risk, it is necessary that this act take effect immediately.

CHAPTER 1416

An act relating to correctional facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. The Department of the Youth Authority is authorized to construct and establish a 600-bed facility at the Northern California Youth Center in San Joaquin County and shall install secure fencing enclosing the Northern California Youth Center.

SEC. 1.1. From funds appropriated by this act, as specified in Section 3.6, the Department of the Youth Authority shall pay one hundred eighty thousand dollars ($180,000) as its proportionate share of the cost of upgrading the interchange between Arch Road and State Route 99 due to traffic generated at the interchange as a result of the construction of the facility authorized by Section 1.

SEC. 1.5. From funds appropriated by this act, as specified in Section 3.5, the Department of Corrections shall pay one hundred twenty thousand dollars ($120,000) as its proportionate share of the cost of upgrading the interchange between Arch Road and State Route 99 due to traffic generated by the Northern California Women's Facility.

SEC. 2. (a) Except as provided in subdivision (b), the Department of the Youth Authority and the Department of Corrections shall jointly enter into an agreement with the Stockton East Water District, and any other entities, for the purchase of surface water to service all state facilities operated at the Northern California Youth Center site. The agreement shall include the participation of the departments in a proportionate share of the cost of construction of a water transmission pipeline from the Stockton East Water Treatment Plant to the intersection of Arch Road and

Newcastle Road. "Proportionate share" means the percentage of the cost of the pipeline equal to the percentage of the capacity required to serve the state facilities at this site.

(b) In no event shall the proportionate share of the cost exceed the amount of two hundred thousand dollars ($200,000). Should the proportionate share of the actual cost to the Stockton East Water District and other entities to construct the water transmission pipeline exceed this amount, the district shall reserve the right to refuse to enter into an agreement with the Department of the Youth Authority and the Department of Corrections to provide surface water to the state facilities operated at the Northern California Youth Center site.

SEC. 2.5. Notwithstanding Section 1 of Chapter 1549 of the Statutes of 1982, as amended by Chapter 165 of the Statutes of 1987 or any other provision of law, the Department of Corrections is authorized to house more than 400, but no more than 800, women at the Northern California Women's Facility located on the grounds of the Northern California Youth Center in San Joaquin County. This action is necessary to alleviate severe overcrowding at the California Institution for Women in Frontera.

SEC. 3. The sum of four hundred sixty-one thousand dollars ($461,000) is appropriated from the 1986 Prison Construction Fund to the Department of the Youth Authority. These funds, along with funds appropriated by subdivision (i) of Section 10 of Chapter 532 of the Statutes of 1986, shall be available as necessary for preliminary plans and working drawings of the Northern California Youth Center in San Joaquin County.

SEC. 3.5. The sum of one hundred twenty thousand dollars ($120,000) is appropriated from the 1986 Prison Construction Fund to the Department of Corrections without regard to fiscal years for the purpose of making the payment required by Section 1.5 of this act.

SEC. 3.6. The sum of one hundred eighty thousand dollars ($180,000) is appropriated from the 1986 Prison Construction Fund to the Department of the Youth Authority without regard to fiscal years for the purpose of making the payment required by Section 1.1 of this act.

SEC. 3.7. The sum of three hundred twenty thousand dollars ($320,000) is hereby appropriated from the 1986 Prison Construction Fund to the Department of Corrections for the Northern California Women's Facility to purchase and install additional beds and lockers.

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:

Facilities of the Youth Authority are severely overcrowded and this bill is necessary to alleviate that overcrowding.

CHAPTER 1417

An act to amend Sections 25174.02, 25174.6, 25174.7, 25205.1, and 25205.8 of the Health and Safety Code, relating to hazardous waste, and making an appropriation therefor.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 25174.02 of the Health and Safety Code is amended to read:

25174.02. (a) The State Board of Equalization shall set the base rate for the hazardous wastes specified in Section 25174.6 in accordance with the following formula:

$$\text{Base rate} = \frac{[(B-M) + .05\,B] \times .46}{(T_1 + T_2 + T_7)\ .25 + (T_3 + T_4)\ 2.00 + (T_5)\ .05 + T_6 + (T_8)\ .10 + (T_9)\ .5}$$

Where all of the following apply:

(1) "B" is the amount appropriated annually by the Legislature for the Hazardous Waste Control Account including, but not limited to, any amounts appropriated for the compensation of employees.

(2) "M" is any unobligated funds remaining in the fund from previous fiscal years.

(3) "T_1" is the total amount in tons of waste specified in paragraph (1) of subdivision (a) of Section 25174.6.

(4) "T_2" is the total amount in tons of waste specified in paragraph (2) of subdivision (a) of Section 25174.6.

(5) "T_3" is the total amount in tons of waste specified in paragraph (3) of subdivision (a) of Section 25174.6.

(6) "T_4" is the total amount in tons of waste specified in paragraph (4) of subdivision (a) of Section 25174.6.

(7) "T_5" is the total amount in tons of waste specified in paragraph (5) of subdivision (a) of Section 25174.6.

(8) "T_6" is the total amount in tons of waste specified in paragraph (6) of subdivision (a) of Section 25174.6.

(9) "T_7" is the total amount in tons of waste specified in paragraph (7) of subdivision (a) of Section 25174.6.

(10) "T_8" is the total amount in tons of waste specified in subdivision (c) of Section 25174.6.

(11) "T_9" is the total amount in tons of waste specified in paragraph (8) of subdivision (a) of Section 25174.6.

(b) The base rate specified in subdivision (a) shall apply to persons subject to the fee specified in Section 25174. Upon the enactment of the Budget Act of 1986, and upon the enactment of the

annual Budget Act for each fiscal year thereafter, the State Board of Equalization shall determine the base rate, in accordance with the formula specified in subdivision (a), using the adjusted tonnage estimates supplied by the department for the fiscal year for that year's budget. The department shall supply these estimates to the State Board of Equalization before July 1 of each year, so as to give the State Board of Equalization sufficient time to determine the base rate. Within 30 days after the enactment of the annual Budget Act, the State Board of Equalization shall send a notice of the adjusted fee rate to every person subject to the fee specified in Section 25174.

(c) 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 enacted before July 1, 1988, deletes or extends that date.

SEC. 2. Section 25174.6 of the Health and Safety Code, as added by Chapter 1506 of the Statutes of 1986, is amended to read:

25174.6. (a) The fee provided pursuant to Section 25174 to be paid by persons disposing of hazardous waste onsite, or submitting hazardous waste for disposal offsite, and by operators of hazardous waste disposal facilities, for each ton, or fraction thereof, of hazardous waste disposed of on land or applied to land on or after July 1, 1986, shall be determined as a percentage of the base rate, as adjusted by the State Board of Equalization, pursuant to Section 25174.02. The percentages of the base rate for determining these fees are as follows:

(1) Twenty-five percent of the base rate for each ton, or fraction thereof for up to the first 5,000 tons of hazardous waste disposed of, or submitted for offsite disposal, at each specific facility by each producer or at each specific onsite facility, per month, which is not subject to Subchapter III (commencing with Section 6921) of Chapter 82 of Title 42 of the United States Code, pursuant to subsection (b) of Section 6921 of Title 42 of the United States Code and which is not otherwise subject to the fee specified in paragraph (3) or (4), or hazardous waste for which the Administrator of the Environmental Protection Agency has determined that regulation is unwarranted, as specified in subparagraph (C) of paragraph (2) of, and subparagraph (C) of paragraph (3) of, subsection (b) of Section 6921 of Title 42 of the United States Code and which is not otherwise subject to the fee specified in paragraph (3) or (4).

(2) Twenty-five percent of the base rate for each ton, or fraction thereof, for up to the first 5,000 tons of hazardous waste disposed of, or submitted for offsite disposal, at each specific facility by each producer or at each specific onsite facility, per month, which result from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and the overburden from the mining of uranium ore and which is not otherwise subject to the fee specified in paragraph (3) or (4).

(3) Two hundred percent of the base rate for each ton, or fraction thereof, of extremely hazardous waste.

(4) Two hundred percent of the base rate for each ton, or fraction thereof, of restricted hazardous wastes listed in Section 66900 of Title

22 of the California Administrative Code.

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

(6) One hundred percent of the base rate for each ton, or fraction thereof, of hazardous waste disposed of, or submitted for offsite disposal, at each specific facility by each producer or at each specific onsite facility, per month, of hazardous waste, which is not otherwise subject to the fees specified in paragraph (1), (2), (3), (4), (5), or (7) of this subdivision or subdivision (c).

(7) Twenty-five percent of the base rate for each ton, or fraction thereof, of waste resulting from the shredding of automobile bodies, sheet metal, and household appliances, if the producer of the shredder waste has certified in writing, to the department, that the producer has in place an ongoing program for inspection and removal of all automobile batteries, mufflers, tailpipes, and wheelweights from the shredder feed, and if the producer meets any other regulations imposed by the department.

(8) Fifty percent of the base rate for each ton, or fraction thereof, of hazardous waste generated in this state which is disposed of, or submitted for disposal, outside the state.

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

(c) Notwithstanding subdivision (a), the fee rate for hazardous waste disposed of, or submitted for offsite disposal, into a surface impoundment which is double lined, meets the criteria specified in paragraph (1), and for which a report has not been submitted pursuant to paragraph (2), is 10 percent of the base rate for each ton, or fraction thereof, of hazardous waste so disposed of or submitted for disposal. The owner or operator of the surface impoundment shall certify to the State Board of Equalization that the requirements of paragraph (1) have been met before the fee rate specified in this subdivision may be applied to the hazardous waste disposed of, or submitted for disposal, into the surface impoundment.

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

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

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

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

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

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

(E) The owner or operator has submitted to the department and to the California regional water quality control board documentation demonstrating full compliance with subparagraphs (A), (B), (C), and (D).

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

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

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

(4) Hazardous waste, as used in this subdivision, includes restricted hazardous waste.

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

(e) This section shall remain in effect only until July 1, 1988, and, as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1988, deletes or extends that date.

SEC. 3. Section 25174.7 of the Health and Safety Code is amended to read:

25174.7. (a) The fees provided for in Sections 25174, 25174.6, and 25205.5 do not apply to any of the following:

(1) Hazardous wastes which result when a state or local agency, or its contractor, removes or remedies a release of hazardous waste caused by another person. This paragraph applies to all acts performed by a state or local agency, or its contractor, on or after July 1, 1984.

(2) Hazardous wastes generated or disposed of by state or local agencies operating a household hazardous waste collection program.

(3) Hazardous wastes generated or disposed of by local vector control agencies which have entered into a cooperative agreement pursuant to Section 2426 or by county agricultural commissioners, if the hazardous wastes result from their control or regulatory activities and if they comply with the requirements of this chapter and regulations adopted pursuant thereto.

(b) This section does not prevent the department from recovering an amount equal to the full cost of the fees specified in Sections 25174 and 25174.6 from any person responsible for a release of hazardous waste which has been removed or remedied by a state or local agency, or its contractor. This section does not limit the department's remedies pursuant to any other provision of law.

SEC. 4. Section 25205.1 of the Health and Safety Code is amended to read:

25205.1. For purposes of this article the following definitions apply:

(a) "Board" means the State Board of Equalization.

(b) "Disposal facility" means a hazardous waste facility used for the disposal of hazardous waste.

(c) "Facility" means a hazardous waste storage, treatment, or disposal facility, including a resource recovery facility or waste transfer station, which has been issued a permit or a grant of interim status by the department pursuant to Article 9 (commencing with Section 25200). "Facility" does not include any facility operated by

a local government agency which is used for household hazardous waste collection or for hazardous wastes which meet the requirements of paragraph (3) of subdivision (a) of Section 25174.7.

(d) "Large storage facility" means a storage facility which stores 1,000 or more tons of hazardous waste during any one month of the state's current fiscal year commencing on or after July 1, 1986.

(e) "Large treatment facility" means a treatment facility which treats or recycles 1,000 or more tons of hazardous waste during any one month of the state's current fiscal year commencing on or after July 1, 1986.

(f) "Generator" means a person who generates volumes of hazardous waste on or after July 1, 1986, in those amounts specified in subdivision (b) of Section 25205.5 at an individual site commencing on or after July 1, 1986, and who does not own or operate a hazardous waste facility at that same individual site.

(g) "Site" means the location of an operation which generates hazardous wastes and which is noncontiguous to any other location of these operations owned by the generator.

(h) "Small storage facility" means a storage facility which is not a large storage facility.

(i) "Small treatment facility" means a treatment facility which is not a large treatment facility.

SEC. 5. Section 25205.8 of the Health and Safety Code is amended to read:

25205.8. This article shall remain in effect only until July 1, 1988, and, as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1988, deletes or extends that date.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1418

An act to amend Sections 44010 and 87010 of the Education Code, and to amend Sections 290, 802, 868.5, 868.8, 11105.3, and 11165 of, and to amend and renumber Section 647a of, the Penal Code, relating to crimes.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 44010 of the Education Code is amended to read:

44010. "Sex offense," as used in Sections 44346, 44425, 44436, 44836, 45123, and 45304, means any one or more of the offenses listed below:

(a) Any offense defined in Section 261.5, 266, 267, 285, 286, 288, 288a, 647.6, or former Section 647a, subdivision 1, 2, 3, or 4 of Section 261, or subdivision (a) or (d) of Section 647 of the Penal Code.

(b) Any offense defined in former subdivision 5 of former Section 647 of the Penal Code repealed by Chapter 560 of the Statutes of 1961, or any offense defined in former 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, to the same extent that such an offense committed prior to such date was a sex offense for the purposes of this section prior to September 15, 1961.

(c) Any offense defined in Section 314 of the Penal Code committed on or after September 15, 1961.

(d) Any offense defined in former 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.

(e) Any offense involving lewd and lascivious conduct under Section 272 of the Penal Code committed on or after September 15, 1961.

(f) 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, to the same extent that such an offense committed prior to such date was a sex offense for the purposes of this section prior to September 15, 1961.

(g) 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.

(h) Any attempt to commit any of the above-mentioned offenses.

(i) Any 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.

SEC. 2. Section 87010 of the Education Code is amended to read:

87010. "Sex offense," as used in Sections 87290, 87335, 87405, 88022, and 88123, means any one or more of the offenses listed below:

(a) Any offense defined in Section 261.5, 266, 267, 285, 286, 288, 288a, 647.6, or former Section 647a, subdivision 2 or 3 of Section 261, or subdivision (a) or (d) of Section 647 of the Penal Code.

(b) Any offense defined in former subdivision 5 of former Section 647 of the Penal Code repealed by Chapter 560 of the Statutes of 1961, or any offense defined in former subdivision 2 of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961, if the offense defined in those sections was committed prior to September 15, 1961, to the same extent that such an offense committed prior to that date was a sex offense for the purposes of this section prior to September 15, 1961.

(c) Any offense defined in Section 314 of the Penal Code committed on or after September 15, 1961.

(d) Any offense defined in former 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.

(e) Any offense involving lewd and lascivious conduct under Section 272 of the Penal Code committed on or after September 15, 1961.

(f) 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 the offense was committed prior to September 15, 1961, to the same extent that such an offense committed prior to that date was a sex offense for the purposes of this section prior to September 15, 1961.

(g) 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.

(h) Any attempt to commit any of the above-mentioned offenses.

(i) Any 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.

SEC. 3. Section 290 of the Penal Code, as amended by Chapter 1299 of the Statutes of 1986, 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 647.6 or former Section 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) Any person who 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 offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(3) 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.

(4) The duty to register under this section for offenses adjudicated by a juvenile court shall terminate when a person reaches the age of 25.

(5) 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 Youthful Offender Parole Board, 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.

SEC. 3.1. Section 290 of the Penal Code, as amended by Chapter 1299 of the Statutes of 1986, 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 647.6 or former Section 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 Department of Justice. The official in charge of the place of confinement shall retain one copy. 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, and prosecuting agency 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) Any person who 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 offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(3) 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.

(4) The duty to register under this section for offenses adjudicated by a juvenile court shall terminate when a person reaches the age of 25.

(5) 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 Youthful Offender Parole Board, 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.

SEC. 4. Section 647a of the Penal Code is amended and renumbered to read:

647.6. Every person who annoys or molests any child under the age of 18 is punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail for not exceeding one year or by both the fine and imprisonment. Every person who violates this section after having entered, without consent, an inhabited dwelling house, or trailer coach as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year. Every person who violates this section is punishable upon the second and each subsequent conviction or upon the first conviction after a previous conviction under Section 288 by imprisonment in the state prison.

SEC. 4.1. Section 647a of the Penal Code is amended and renumbered to read:

647.6. Every person who annoys or molests any child under the age of 18 is punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail for not exceeding one year or by both the fine and imprisonment. Every person who violates this section after having entered, without consent, an inhabited dwelling house, or trailer coach as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year. Every person who violates this section is punishable upon the second and each subsequent conviction by imprisonment in the state prison. Every person who violates this section after a previous felony conviction under this section, conviction under Section 288, or felony conviction under Section 311.4 involving a minor under the age of 14 years is punishable by imprisonment in the state prison for two, four, or six years.

SEC. 4.2. Section 647a of the Penal Code is amended and renumbered to read:

647.6. Every person who annoys or molests any child under the age of 18 is punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail for not exceeding one year or by both the fine and imprisonment. Every person who violates this section after having entered, without consent, an inhabited dwelling house, or trailer coach as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year. Every person who violates this section is punishable upon the second and each subsequent conviction or upon the first conviction after a previous conviction under Section 288 by imprisonment in the state prison. In any case in which a person is convicted of violating this section and probation is granted, the court shall require counseling as a condition of probation, unless the court makes a written statement in the court record, that counseling would be inappropriate or ineffective.

SEC. 4.3. Section 647a of the Penal Code is amended and renumbered to read:

647.6. Every person who annoys or molests any child under the age of 18 is punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail for not exceeding one year or by both the fine and imprisonment. Every person who violates this section after having entered, without consent, an inhabited dwelling house, or trailer coach as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year. Every person who violates this section is punishable upon the second and each subsequent conviction by imprisonment in the state prison. Every person who violates this section after a previous felony conviction under this section, conviction under Section 288, or felony conviction under Section 311.4 involving a minor under the age of 14 years is punishable by imprisonment in the state prison for two, four, or six years. In any case in which a person is convicted of violating this section and probation is granted, the court shall require counseling as a condition of probation, unless the court makes a written statement in the court record, that counseling would be inappropriate or ineffective.

SEC. 5. Section 802 of the Penal Code is amended to read:

802. (a) Except as provided in subdivision (b), prosecution for an offense not punishable by death or imprisonment in the state prison shall be commenced within one year after commission of the offense.

(b) Prosecution for a misdemeanor violation of Section 647.6 or former Section 647a, committed with or upon a minor under the age of 11, shall be commenced within two years after commission of the offense.

SEC. 6. Section 868.5 of the Penal Code is amended to read:

868.5. (a) Notwithstanding any other provision of law, a prosecuting witness 16 years of age or under in a case involving a violation of Section 243.4, 261, 273a, 273d, 285, 286, 288, 288a, 289, 647.6, or former Section 647a, or a violation of subdivision (1) of Section 314, shall be entitled for support to the attendance of up to two family members of his or her own choosing, one of whom may be a witness, at the preliminary hearing and at the trial, during the testimony of the prosecuting witness. Only one of those support persons may accompany the witness to the witness stand, although the other may remain in the courtroom during the witness' testimony. The person or persons so chosen shall not be a person described in Section 1070 of the Evidence Code unless the person or persons are related to the prosecuting witness as a parent, guardian, or sibling and do not make notes during the hearing.

(b) If the person or persons so chosen are also prosecuting witnesses, the prosecution shall present evidence that the person's attendance is both desired by the prosecuting witness for support and will be helpful to the prosecuting witness. Upon that showing, the court shall grant the request unless information presented by the defendant or noticed by the court establishes that the support

person's attendance during the testimony of the prosecuting witness would pose a substantial risk of influencing or affecting the content of that testimony.

(c) The testimony of the person or persons so chosen who are also prosecuting witnesses shall be presented before the testimony of the prosecuting witness. The prosecuting witness shall be excluded from the courtroom during that testimony. Whenever the evidence given by that person or those persons would be subject to exclusion because given before the corpus delicti has been established, the evidence shall be admitted subject to the court's or the defendant's motion to strike that evidence from the record if the corpus delicti is not later established by the testimony of the prosecuting witness.

SEC. 6.5. Section 868.5 of the Penal Code is amended to read:

868.5. (a) Notwithstanding any other provision of law, a prosecuting witness 16 years of age or under in a case involving a violation of Section 243.4, 261, 273a, 273d, 285, 286, 288, 288a, 289, 647.6, or former Section 647a, or a violation of subdivision (1) of Section 314, shall be entitled for support to the attendance of up to two family members of his or her own choosing, one of whom may be a witness, at the preliminary hearing and at the trial, or at a juvenile court proceeding, during the testimony of the prosecuting witness. Only one of those support persons may accompany the witness to the witness stand, although the other may remain in the courtroom during the witness' testimony. The person or persons so chosen shall not be a person described in Section 1070 of the Evidence Code unless the person or persons are related to the prosecuting witness as a parent, guardian, or sibling and do not make notes during the hearing or proceeding.

(b) If the person or persons so chosen are also prosecuting witnesses, the prosecution shall present evidence that the person's attendance is both desired by the prosecuting witness for support and will be helpful to the prosecuting witness. Upon that showing, the court shall grant the request unless information presented by the defendant or noticed by the court establishes that the support person's attendance during the testimony of the prosecuting witness would pose a substantial risk of influencing or affecting the content of that testimony. In the case of a juvenile court proceeding, the judge shall inform the support person or persons that juvenile court proceedings are confidential and may not be discussed with anyone not in attendance at the proceedings. In all cases, the judge shall admonish the support person or persons to not prompt, sway, or influence the minor witness in any way.

(c) The testimony of the person or persons so chosen who are also prosecuting witnesses shall be presented before the testimony of the prosecuting witness. The prosecuting witness shall be excluded from the courtroom during that testimony. Whenever the evidence given by that person or those persons would be subject to exclusion because given before the corpus delicti has been established, the evidence shall be admitted subject to the court's or the defendant's motion to

strike that evidence from the record if the corpus delicti is not later established by the testimony of the prosecuting witness.

SEC. 7. Section 868.8 of the Penal Code is amended to read:

868.8. Notwithstanding any other provision of law, in any criminal proceeding in which the defendant is charged with a violation of Section 243.4, 261, 273a, 273d, 285, 286, 288, 288a, or 289, subdivision (1) of Section 314, Section 647.6, or former Section 647a, committed with or upon a minor under the age of 11, the court shall take special precautions to provide for the comfort and support of the minor and to protect the minor from coercion, intimidation, or undue influence as a witness, including, but not limited to, any of the following:

(a) In the court's discretion, the witness may be allowed reasonable periods of relief from examination and cross-examination during which he or she may retire from the courtroom. The judge may also allow other witnesses in the proceeding to be examined when the child witness retires from the courtroom.

(b) Notwithstanding Section 68110 of the Government Code, in his or her discretion, the judge may remove his or her robe if the judge believes that this formal attire intimidates the minor.

(c) In the court's discretion the judge, parties, witnesses, support persons, and court personnel may be relocated within the courtroom to facilitate a more comfortable and personal environment for the child witness.

(d) In the court's discretion, the taking of the child's testimony may be limited to the hours during which the child is normally in school, if there is no good cause to take the child's testimony during other hours.

SEC. 8. 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, 647.6, or former Section 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. 9. 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 647.6 or former Section 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, video tape, 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, optometrist, 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. 9.2. Section 3.1 of this bill incorporates amendments to Section 290 of the Penal Code proposed by both this bill and AB 1407. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1988, (2) each bill amends Section 290 of the Penal Code, and (3) this bill is enacted after AB 1407, in which case Section 3 of this bill shall not become operative.

SEC. 9.3. (a) Section 4.1 this bill incorporates amendments to Section 647a of the Penal Code proposed by both this bill and SB 1052. It shall only become operative if (1) both bills are enacted and become effective January 1, 1988, (2) each bill amends Section 647a of the Penal Code, and (3) AB 2441 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1052, in which case Sections 4, 4.2, and 4.3 of this bill shall not become operative.

(b) Section 4.2 of this bill incorporates amendments to Section 647a of the Penal Code proposed by both this bill and AB 2441. It shall only become operative if (1) both bills are enacted and become effective January 1, 1988, (2) each bill amends Section 647a of the Penal Code, (3) SB 1052 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2441 in which case Sections 4, 4.1, and 4.3 of this bill shall not become operative.

(c) Section 4.3 of this bill incorporates amendments to Section 647a of the Penal Code proposed by this bill, SB 1052, and AB 2441. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1988, (2) all three bills amend Section 647a of the Penal Code, (3) this bill is enacted after SB 1052 and AB 2441, in which case Sections 4, 4.1, and 4.2 of this bill shall not become operative.

SEC. 9.5. Section 6.5 of this bill incorporates amendments to Section 868.5 of the Penal Code proposed by both this bill and AB 1068. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1988, (2) each bill amends Section 868.5 of the Penal Code, and (3) this bill is enacted after AB 1068, in which case Section 6 of this bill 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 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.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant

to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1419

An act to add Section 22232 to the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 22232 is added to the Education Code, to read:

22232. (a) Any tax sheltered annuity program advertised, promoted, offered, or operated by the system shall provide for recovery of all costs and expenses of its own operation including, but not limited to, advertising, promotion, legal, accounting, recordkeeping, and investment costs and expenses and it shall not be subsidized, in any respect whatsoever, by the Teachers' Retirement Fund.

(b) The system shall not utilize its member mailing list for the purpose of transmitting information dedicated solely to advertising or marketing this program.

CHAPTER 1420

An act to add Article 9 (commencing with Section 12650) to Chapter 6 of Division 3 of Title 2 of the Government Code, relating to claims against the state.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Article 9 (commencing with Section 12650) is added to Chapter 6 of Division 3 of Title 2 of the Government Code, to read.

Article 9. False Claims Actions

12650. For purposes of this article:

(a) "Claim" includes any request or demand for money, property,

or services made to any employee, officer, or agent of the state or of any political subdivision, or to any contractor, grantee, or other recipient, whether under contract or not, if any portion of the money, property, or services requested or demanded issued from, or was provided by, the state (hereinafter "state funds") or by any political subdivision thereof (hereinafter "political subdivision funds").

(b) "Knowing" and "knowingly" mean that a person, with respect to information, does any of the following:

(1) Has actual knowledge of the information.

(2) Acts in deliberate ignorance of the truth or falsity of the information.

(3) Acts in reckless disregard of the truth or falsity of the information.

Proof of specific intent to defraud is not required.

(c) "Political subdivision" includes any city, city and county, county, tax or assessment district, or other legally authorized local governmental entity with jurisdictional boundaries.

(d) "Prosecuting authority" refers to the county counsel, city attorney, or other local government official charged with investigating, filing, and conducting civil legal proceedings on behalf of, or in the name of, a particular political subdivision.

(e) "Person" includes any natural person, corporation, firm, association, organization, partnership, business, or trust.

12651. (a) Any person who commits any of the following acts shall be liable to the state or to the political subdivision for three times the amount of damages which the state or the political subdivision sustains because of the act of that person. A person who commits any of the following acts shall also be liable to the state or to the political subdivision for the costs of a civil action brought to recover any of those penalties or damages, and may be liable to the state or political sudivision for a civil penalty of up to ten thousand dollars ($10,000) for each false claim:

(1) Knowingly presents or causes to be presented to an officer or employee of the state or of any political subdivision thereof, a false claim for payment or approval.

(2) Knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the state or by any political subdivision.

(3) Conspires to defraud the state or any political subdivision by getting a false claim allowed or paid by the state or by any political subdivision.

(4) Has possession, custody, or control of public property or money used or to be used by the state or by any political subdivision and knowingly delivers or causes to be delivered less property than the amount for which the person receives a certificate or receipt.

(5) Is authorized to make or deliver a document certifying receipt of property used or to be used by the state or by any political subdivision and knowingly makes or delivers a receipt that falsely

represents the property used or to be used.

(6) Knowingly buys, or receives as a pledge of an obligation or debt, public property from any person who lawfully may not sell or pledge the property.

(7) Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the state or to any political subdivision.

(8) Is a beneficiary of an inadvertent submission of a false claim to the state or a political subdivision, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the state or the political subdivision within a reasonable time after discovery of the false claim.

(b) Notwithstanding subdivision (a), the court may assess not less than two times and not more than three times the amount of damages which the state or the political subdivision sustains because of the act of the person described in that subdivision, and no civil penalty, if the court finds all of the following:

(1) The person committing the violation furnished officials of the state or of the political subdivision responsible for investigating false claims violations with all information known to that person about the violation within 30 days after the date on which the person first obtained the information.

(2) The person fully cooperated with any investigation by the state or a political subdivision of the violation.

(3) At the time the person furnished the state or the political subdivision with information about the violation, no criminal prosecution, civil action, or administrative action had commenced with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation.

(c) Liability under this section shall be joint and several for any act committed by two or more persons.

(d) This section does not apply to any controversy involving an amount of less than five hundred dollars ($500) in value. For purposes of this subdivision, "controversy" means any one or more false claims submitted by the same person in violation of this article.

(e) This section does not apply to claims, records, or statements made pursuant to Division 3.6 (commencing with Section 810) of Title 1 or to workers' compensation claims filed pursuant to Division 4 (commencing with Section 3200) of the Labor Code.

(f) This section does not apply to claims, records, or statements made under the Revenue and Taxation Code.

12652. (a) (1) The Attorney General shall diligently investigate violations under Section 12651 involving state funds. If the Attorney General finds that a person has violated or is violating Section 12651, the Attorney General may bring a civil action under this section against that person.

(2) If the Attorney General brings a civil action under this subdivision on a claim involving political subdivision funds as well as

state funds, the Attorney General shall, on the same date that the complaint is filed in this action, serve by mail with "return receipt request" a copy of the complaint on the appropriate prosecuting authority.

(3) The prosecuting authority shall have the right to intervene in an action brought by the Attorney General under this subdivision within 60 days after receipt of the complaint pursuant to paragraph (2). The court may permit intervention thereafter upon a showing that all of the requirements of Section 387 of the Code of Civil Procedure have been met.

(b) (1) The prosecuting authority of a political subdivision shall diligently investigate violations under Section 12651 involving political subdivision funds. If the prosecuting authority finds that a person has violated or is violating Section 12651, the prosecuting authority may bring a civil action under this section against that person.

(2) If the prosecuting authority brings a civil action under this section on a claim involving state funds as well as political subdivision funds, the prosecuting authority shall, on the same date that the complaint is filed in this action, serve a copy of the complaint on the Attorney General.

(3) Within 60 days after receiving the complaint pursuant to paragraph (2), the Attorney General shall do either of the following:

(A) Notify the court that it intends to proceed with the action, in which case the Attorney General shall assume primary responsibility for conducting the action and the prosecuting authority shall have the right to continue as a party.

(B) Notify the court that it declines to take over the action, in which case the prosecuting authority shall have the right to conduct the action.

(c) (1) A person may bring a civil action for a violation of this article for the person and either for the State of California in the name of the state, if any state funds are involved, or for a political subdivision in the name of the political subdivision, if political subdivision funds are exclusively involved. The person bringing the action shall be referred to as the qui tam plaintiff. Once filed, the action may be dismissed only with the written consent of the court, taking into account the best interests of the parties involved and the public purposes behind this act.

(2) A complaint filed by a private person under this subdivision shall be filed in superior court in camera and may remain under seal for up to 60 days. No service shall be made on the defendant until after the complaint is unsealed.

(3) On the same day as the complaint is filed pursuant to paragraph (2), the qui tam plaintiff shall serve by mail with "return receipt requested" the Attorney General with a copy of the complaint and a written disclosure of substantially all material evidence and information the person possesses.

(4) Within 60 days after receiving a complaint alleging violations

which involve state funds but not political subdivision funds, the Attorney General shall do either of the following:

(A) Notify the court that it intends to proceed with the action, in which case the seal shall be lifted.

(B) Notify the court that it declines to take over the action, in which case the seal shall be lifted and the qui tam plaintiff shall have the right to conduct the action.

(5) (A) Within 15 days after receiving a complaint alleging violations which exclusively involve political subdivision funds, the Attorney General shall forward the complaint and written disclosure to the appropriate prosecuting authority for disposition and shall notify the qui tam plaintiff of the transfer.

(B) Within 45 days after the Attorney General forwards the complaint and written disclosure pursuant to subparagraph (A), the prosecuting authority shall do either of the following:

(i) Notify the court that it intends to proceed with the action, in which case the seal shall be lifted.

(ii) Notify the court that it declines to take over the action, in which case the seal shall be lifted and the qui tam plaintiff shall have the right to conduct the action.

(6) (A) Within 15 days after receiving a complaint alleging violations which involve both state and political subdivision funds, the Attorney General shall forward copies of the complaint and written disclosure to the appropriate prosecuting authority, and shall coordinate its review and investigation with those of the prosecuting authority.

(B) Within 60 days after receiving a complaint alleging violations which involve both state and political subdivision funds, the Attorney General shall do either of the following:

(i) Notify the court that it intends to proceed with the action, in which case the seal shall be lifted.

(ii) Notify the court that it declines to take over the action but that the prosecuting authority of the political subdivision involved intends to proceed with the action, in which case the seal shall be lifted and the action shall be conducted by the prosecuting authority.

(iii) Notify the court that both it and the prosecuting authority decline to take over the action, in which case the seal shall be lifted and the qui tam plaintiff shall have the right to conduct the action.

(C) If the Attorney General proceeds with the action pursuant to clause (i) of subparagraph (B), the political subdivision shall be permitted to intervene in the action within 60 days after the Attorney General notifies the court of its intentions. The court may authorize intervention thereafter upon a showing that all the requirements of Section 387 of the Code of Civil Procedure have been met.

(7) Upon a showing of good cause and reasonable diligence in its investigation, the Attorney General or the prosecuting authority of a political subdivision may move the court for extensions of the time during which the complaint remains under seal, but in no event may

the complaint remain under seal for longer than 90 days.

(8) When a person brings an action under this subdivision, no other person may bring a related action based on the facts underlying the pending action.

(d) (1) No court shall have jurisdiction over an action brought under subdivision (c) against a member of the State Senate or Assembly, a member of the state judiciary, an elected official in the executive branch of the state, or a member of the governing body of any political subdivision if the action is based on evidence or information known to the state or political subdivision when the action was brought.

(2) In no event may a person bring an action under subdivision (c) which is based upon allegations or transactions which are the subject of a civil suit or an administrative civil money penalty proceeding in which the state or political subdivision is already a party.

(3) (A) No court shall have jurisdiction over an action under this article based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in an investigation, report, hearing, or audit conducted by or at the request of the Senate, Assembly, auditor, or governing body of a political subdivision, or from the news media, unless the action is brought by the Attorney General or the prosecuting authority of a political subdivision, or the person bringing the action is an original source of the information.

(B) For purposes of subparagraph (A), "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based, who voluntarily provided the information to the state or political subdivision before filing an action based on that information, and whose information provided the basis or catalyst for the investigation, hearing, audit, or report which led to the public disclosure as described in subparagraph (A).

(4) No court shall have jurisdiction over an action brought under subsection (c) based upon information discovered by a present or former employee of the state or a political subdivision during the course of his or her employment, unless that employee first in good faith exhausted existing internal procedures for reporting and seeking recovery of such falsely claimed sums through official channels and unless the state or political subdivision failed to act on the information provided within a reasonable period of time.

(e) (1) If the state or political subdivision proceeds with the action, it shall have the primary responsibility for prosecuting the action. The qui tam plaintiff shall have the right to continue as a full party to the action.

(2) (A) The state or political subdivision may seek to dismiss the action for good cause notwithstanding the objections of the qui tam plaintiff if the qui tam plaintiff has been notified by the state or political subdivision of the filing of the motion and the court has provided the qui tam plaintiff with an opportunity to oppose the

motion and present evidence at a hearing.

(B) The state or political subdivision may settle the action with the defendant notwithstanding the objections of the qui tam plaintiff if the court determines, after a hearing providing the qui tam plaintiff an opportunity to present evidence, that the proposed settlement is fair, adequate, and reasonable under all of the circumstances.

(f) (1) If the state or political subdivision elects not to proceed, the qui tam plaintiff shall have the same right to conduct the action as the Attorney General or prosecuting authority would have had if it had chosen to proceed under subdivision (c). If the state or political subdivision so requests, and at its expense, the state or political subdivision shall be served with copies of all pleadings filed in the action and supplied with copies of all deposition transcripts.

(2) (A) Upon timely application, the court shall permit the state or political subdivision to intervene in an action with which it had initially declined to proceed if the interest of the state or political subdivision in recovery of the property or funds involved is not being adequately represented by the qui tam plaintiff.

(B) If the state or political subdivision is allowed to intervene under paragraph (A), the qui tam plaintiff shall retain principal responsibility for the action and the recovery of the parties shall be determined as if the state or political subdivision had elected not to proceed.

(g) (1) (A) If the Attorney General initiates an action pursuant to subdivision (a) or assumes control of an action initiated by a prosecuting authority pursuant to subparagraph (A) of paragraph (3) of subdivision (b), the office of the Attorney General shall receive a fixed 33 percent of the proceeds of the action or settlement of the claim, which funds shall be used to support its ongoing investigation and prosecution of false claims.

(B) If a prosecuting authority initiates and conducts an action pursuant to subdivision (b), the office of the prosecuting authority shall receive a fixed 33 percent of the proceeds of the action or settlement of the claim, which funds shall be used to support its ongoing investigation and prosecution of false claims.

(C) If a prosecuting authority intervenes in an action initiated by the Attorney General pursuant to paragraph (3) of subdivision (a) or remains a party to an action assumed by the Attorney General pursuant to subparagraph (A) of paragraph (3) of subdivision (b), the court may award the office of the prosecuting authority a portion of the Attorney General's fixed 33 percent of the recovery under subparagraph (A), taking into account the prosecuting authority's role in investigating and conducting the action.

(2) If the state or political subdivision proceeds with an action brought by a qui tam plaintiff under subdivision (c), the qui tam plaintiff shall, subject to paragraphs (4) and (5), receive at least 15 percent but not more than 33 percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the

qui tam plaintiff substantially contributed to the prosecution of the action. When it conducts the action, the Attorney General's office or the office of the prosecuting authority of the political subdivision shall receive a fixed 33 percent of the proceeds of the action or settlement of the claim, which funds shall be used to support its ongoing investigation and prosecution of false claims made against the state or political subdivision. When both the Attorney General and a prosecuting authority are involved in a qui tam action pursuant to subparagraph (C) of paragraph (6) of subdivision (c), the court at its discretion may award the prosecuting authority a portion of the Attorney General's fixed 33 percent of the recovery, taking into account the prosecuting authority's contribution to investigating and conducting the action.

(3) If the state or political subdivision does not proceed with an action under subdivision (c), the qui tam plaintiff shall, subject to paragraphs (4) and (5), receive an amount which the court decides is reasonable for collecting the civil penalty and damages on behalf of the government. The amount shall be not less than 25 percent and not more than 50 percent of the proceeds of the action or settlement and shall be paid out of such proceeds.

(4) Where the action is one provided for under paragraph (4) of subdivision (d), the present or former employee of the state or political subdivision shall not be entitled to any minimum guaranteed recovery from the proceeds. The court, however, may award the qui tam plaintiff those sums from the proceeds as it considers appropriate, but in no case more than 33 percent of the proceeds if the state or political subdivision goes forth with the action or 50 percent if the state or political subdivision declines to go forth, taking into account the significance of the information, the role of the qui tam plaintiff in advancing the case to litigation, and the scope of, and response to, the employee's attempts to report and gain recovery of such falsely claimed funds through official channels.

(5) Where the action is one which the court finds to be based primarily on information from a present or former employee who actively participated in the fraudulent activity, the employee shall not be entitled to any minimum guaranteed recovery from the proceeds. The court, however, may award the qui tam plaintiff such sums from the proceeds as it considers appropriate, but in no case more than 33 percent of the proceeds if the state or political subdivision goes forth with the action or 50 percent if the state or political subdivision declines to go forth, taking into account the significance of the information, the role of the qui tam plaintiff in advancing the case to litigation, the scope of the present or past employee's involvement in the fraudulent activity, said employee's attempts to avoid or resist such activity, and all other circumstances surrounding the activity.

(6) The portion of the recovery not distributed pursuant to paragraphs (1) to (5), inclusive, shall revert to the state if the underlying false claims involved state funds exclusively and to the

political subdivision if the underlying false claims involved political subdivision funds exclusively. If the violation involved both state and political subdivision funds, the court shall make an apportionment between the state and political subdivision based on their relative share of the funds falsely claimed.

(7) For purposes of this section, "proceeds" include civil penalties as well as double or treble damages as provided in Section 12651.

(8) If the state, political subdivision, or the qui tam plaintiff prevails in or settles any action under subdivision (c), the qui tam plaintiff shall receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable costs and attorneys' fees. All expenses, costs, and fees shall be awarded against the defendant and under no circumstances shall they be the responsibility of the state or political subdivision.

(9) If the state or political subdivision does not proceed with the action and the qui tam plaintiff conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the qui tam plaintiff was clearly frivolous, clearly vexatious, or brought solely for purposes of harassment.

(h) The court may stay an act of discovery of the person initiating the action for a period of not more than 60 days if the Attorney General or local prosecuting authority show that the act of discovery would interfere with an investigation or a prosecution of a criminal or civil matter arising out of the same facts, regardless of whether the Attorney General or local prosecuting authority proceeds with the action. Such a showing shall be conducted in camera. The court may extend the 60-day period upon a further showing in camera that the Attorney General or local prosecuting authority has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

(i) Upon a showing by the Attorney General or local prosecuting authority that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the Attorney General's or local prosecuting's authority prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, including the following:

(1) Limiting the number of witnesses the person may call.

(2) Limiting the length of the testimony of such witnesses.

(3) Limiting the person's cross-examination of witnesses.

(4) Otherwise limiting the participation by the person in the litigation.

12653. (a) No employer shall make, adopt, or enforce any rule, regulation, or policy preventing an employee from disclosing information to a government or law enforcement agency or from acting in furtherance of a false claims action, including investigating, initiating, testifying, or assisting in an action filed or to be filed under

Section 12652.

(b) No employer shall discharge, demote, suspend, threaten, harass, deny promotion to, or in any other manner discriminate against, an employee in the terms and conditions of employment because of lawful acts done by the employee on behalf of the employee or others in disclosing information to a government or law enforcement agency or in furthering a false claims action, including investigation for, initiation of, testimony for, or assistance in, an action filed or to be filed under Section 12652.

(c) An employer who violates subdivision (b) shall be liable for all relief necessary to make the employee whole, including reinstatement with the same seniority status that the employee would have had but for the discrimination, two times the amount of back pay, interest on the back pay, compensation for any special damage sustained as a result of the discrimination, and, where appropriate, punitive damages. In addition, the defendant shall be required to pay litigation costs and reasonable attorneys' fees. An employee may bring an action in the appropriate superior court of the state for the relief provided in this subdivision.

(d) An employee who is discharged, demoted, suspended, harassed, denied promotion, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of participation in conduct which directly or indirectly resulted in a false claim being submitted to the state or a political subdivision shall be entitled to the remedies under subdivision (c) if, and only if, both of the following occur:

(1) The employee voluntarily disclosed information to a government or law enforcement agency or acted in furtherance of a false claims action, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed.

(2) The employee had been harassed, threatened with termination or demotion, or otherwise coerced by the employer or its management into engaging in the fraudulent activity in the first place.

12654. (a) A civil action under Section 12652 may not be filed more than three years after the date of discovery by the official of the state or political subdivision charged with responsibility to act in the circumstances or, in any event, no more than 10 years after the date on which the violation of Section 12651 is committed.

(b) A civil action under Section 12652 may be brought for activity prior to the effective date of this article if the limitations period set in subdivision (a) has not lapsed.

(c) In any action brought under Section 12652, the state, the political subdivision, or the qui tam plaintiff shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

(d) Notwithstanding any other provision of law, a guilty verdict rendered in a criminal proceeding charging false statements or fraud, whether upon a verdict after trial or upon a plea of guilty or

nolo contendere, except for a plea of nolo contendere made prior to January 1, 1988, shall estop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding and which is brought under subdivision (a), (b), or (c) of Section 12652.

12655. (a) The provisions of this article are not exclusive, and the remedies provided for in this article shall be in addition to any other remedies provided for in any other law or available under common law.

(b) If any provision of this article or the application thereof to any person or circumstance is held to be unconstitutional, the remainder of the article and the application of the provision to other persons or circumstances shall not be affected thereby.

(c) This article shall be liberally construed and applied to promote the public interest.

CHAPTER 1421

An act relating to health, making an appropriation therefor.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987]

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

SECTION 1. (a) Notwithstanding subdivision (b) of Provision 1 of Item 4260-111-001 of Chapter 135 of the Statutes of 1987, and in substitution therefor, the advisory committee described in subdivision (c) shall oversee a study contracted for by the State Department of Health Services to evaluate the comparative safety from transfusion acquired infectious diseases of the following three blood platelet transfusion products:

(1) Pooled random platelet packs.

(2) Platelet pheresis concentrates derived through the hemapheresis process from volunteer donors.

(3) Platelet pheresis concentrates derived through the hemapheresis process from paid donors.

(b) The safety of the blood platelet transfusion products shall be assessed by an audit of laboratory records of consecutive blood platelet component products from blood banks which harvest platelets from volunteer and paid donors in like geographic areas. The audit shall assess the safety profiles and the percentage of platelet units rejected for laboratory testing abnormalities for each of the three blood platelet transfusion products. Laboratory tests to be reviewed shall include all of the following:

(1) Hepatitis B surface antigen.

(2) Antibody to hepatitis B core antigen.

(3) Antibody to the human immunodeficiency virus.

(4) Alanine aminotransferase (ALT) test for elevated liver enzymes.

(c) The Director of Health Services shall appoint an advisory committee (hereinafter known as the committee), composed of the following representatives to oversee the study defined in this section:

(1) The Director of the Apheresis Blood Unit Component at Scripps Clinic and Green Hospital.

(2) The Director of Blood Banks at the University of Southern California/Los Angeles County Medical Center.

(3) The Chief of Clinical Pathology, Department of Pathology, Harbor-UCLA Medical Center.

(4) The Professor of Laboratory Medicine/Director of the Transfusion Medicine Research program at the University of California, San Francisco Medical Center.

(5) The Director of the north San Diego County Blood Bank.

If any of the individuals designated in paragraphs (1) to (5), inclusive, are unable to serve, a committee composed of a minimum of three members shall be sufficient for performance of the committee's duties.

(d) The committee shall do all of the following:

(1) Establish the criteria for selecting the individuals or organizations which will be contracting with the department pursuant to subdivision (f) to complete the study.

(2) Establish the protocols for conducting the study.

(e) The members of the committee shall be reimbursed for travel and communication expenses and shall receive one hundred dollars ($100) per diem for attendance at steering committee meetings.

(f) The department, with the concurrence of the committee, shall engage in contracts necessary to complete the study required by this section. Contractors shall provide progress reports to the department and the committee as determined necessary by the committee. The members of the committee shall have no personal financial interest or direct involvement in the implementation of the study described in this section. Nothing in this section shall be construed to limit the departments' ability to contract with the universities or facilities at which the members of the committee are employed or practice.

(g) At the end of each fiscal year for which funding for the study is provided, the committee shall report its findings to the department and the Legislature.

(h) Funding for implementation of this act shall be limited to no more than two hundred thousand dollars ($200,000) per year which may be provided through, but not beyond, the 1989–90 fiscal year. Funds appropriated in subdivision (b) of Provision 1 of Items 4260-111-001 of Chapter 135 of the Statutes of 1987, in the 1987–88 Budget Act shall be expended in order to implement this section. It is the intent of the Legislature that, for subsequent fiscal years, funding shall be provided in the Budget Act, in conjunction with funding for research on lupus erythematosus, in order to implement this section.

CHAPTER 1422

An act to amend Sections 7652, 16520, 16530, 16531, and 16532 of, to amend, repeal, and add Section 9011 of, to add Section 7856 to, and to repeal Section 16521 of, the Fish and Game Code, relating to commercial fishing.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987]

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

SECTION 1. The Legislature finds and declares that the consumption of fish and shellfish, low in fat and rich in Omega 3 fatty acids, is a necessary part of a healthy diet, and fishermen, while working aboard a vessel, should be allowed to consume fish and shellfish that they have taken. The Legislature further finds that fish which are prohibited from being taken, or which cannot be readily identified due to cutting or filleting, must be prevented from illegally entering the marketplace, and therefore guidelines on where and how much fish shall be available for consumption aboard are necessary.

SEC. 2. Section 7652 of the Fish and Game Code is amended to read:

7652. Upon the preparation by the council, and the recommendation by the council to the secretary, of a fishery management plan or amendment thereto pursuant to the act, or upon the approval by the secretary of a fishery management plan, or amendment thereto, pursuant to the act, the director may do the following to conform state law or regulations of the commission to the fishery management plan, or amendment thereto, if the director finds that the action is necessary to achieve optimum yield in California and that it is necessary to avoid a substantial and adverse effect on the plan by that state law or the regulations in order to continue state jurisdiction pursuant to Section 1856 of the act:

(a) Adopt regulations that would make inoperative for up to one year any statute or regulation of the commission, including, but not limited to, statutes or regulations regulating bag limits, methods of take, and seasons for taking of fish for commercial purposes.

Any regulation adopted by the director pursuant to this subdivision shall specify the particular statute or regulation of the commission to be inoperative.

(b) Adopt regulations effective for up to one year governing phases of the taking of fish for commercial purposes which are not presently regulated by statute or regulation of the commission.

(c) Adopt regulations effective for up to one year governing

phases of the taking of fish for commercial purposes which are presently regulated by statute or regulation of the commission, only if the statutes or regulations are first made inoperative pursuant to subdivision (a) for the effective period of the regulations adopted by the director.

SEC. 3. Section 7856 is added to the Fish and Game Code, to read:

7856. Notwithstanding any other provision of this division, and except when prohibited by federal law, fish may be prepared for human consumption aboard a commercial fishing vessel only under the following conditions:

(a) The fish are taken under all existing commercial fishing regulations or the fish is of a species and size that can be lawfully taken under sportfishing regulations in the area where taken and are taken incidental to normal commercial fishing operations.

(b) The fish is separated from other fish and stored with other foodstuff for consumption by the crew and passengers aboard the vessel.

(c) The fish, or parts thereof, shall not be bought, sold, offered for sale, transferred to any other person, landed, brought ashore, or used for any purpose except for consumption by the crew and passengers.

(d) (1) All fish shall be maintained in such a condition that the species can be determined, and the size or weight can be determined if a size or weight limit applies, until the fish is prepared for immediate consumption.

(2) If the fish is filleted, a patch of skin shall be retained on each fillet as prescribed by the commission in the sportfishing regulations until the fish is prepared for immediate consumption.

(3) Fillets from fish possessed under sportfishing regulations shall be of the minimum length prescribed by commission regulations.

(e) No fish which may be possessed under sportfishing regulations may be possessed in excess of the sport bag limit for each crew member and passenger on board the vessel.

(f) Notwithstanding other provisions of this section, kelp bass, sand bass, spotted bass, yellowfin croaker, spotfin croaker, California corbina, marlin, or abalone which are less than the commercial size limit shall not be possessed aboard a commercial fishing vessel while that vessel is on a commercial fishing trip. Sturgeon or striped bass shall not be possessed aboard a commercial fishing vessel.

SEC. 4. Section 9011 of the Fish and Game Code is amended to read:

9011. (a) Subject to Article 6 (commencing with Section 8275) of Chapter 2, dungeness crab, as defined in Section 8275, may be taken with crab traps.

(b) Subdivision (c) does not apply to crab traps used under a permit issued pursuant to Section 9001 to take rock crab, as defined in Section 8275, south of Pillar Point in San Mateo County. No person shall possess any lobster aboard a vessel while the vessel is being used under this subdivision to take rock crab, as defined in Section 8275. Any dungeness crab taken in a crab trap used pursuant to this

subdivision to take rock crab shall be immediately returned unharmed to the waters from which it was taken.

(c) A crab trap may have any number of openings of any size; however, except as provided in subdivision (b) or (d), every crab trap shall have at least two rigid circular openings of not less than 4¼ inches, inside diameter, on the top or side of the trap. If both of the openings are located on the side of the trap, at least one of the openings shall be located so that at least one-half of the opening is in the upper half of the trap.

(d) Subdivision (c) does not apply to crab traps used south of Point Conception.

(e) 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. 5. Section 9011 is added to the Fish and Game Code, to read:

9011. (a) Subject to Article 6 (commencing with Section 8275) of Chapter 2, dungeness crab, as defined in Section 8275, may be taken with crab traps.

(b) Subdivision (c) does not apply to crab traps used under a permit issued pursuant to Section 9001 in Districts 19 or 118.5 to take rock crab, as defined in Section 8275. No person shall possess any lobster aboard a vessel while the vessel is being used under this subdivision to take rock crab, as defined in Section 8275.

(c) A crab trap may have any number of openings of any size; however, except as provided in subdivision (b) or (d), every crab trap shall have at least two rigid circular openings of not less than 4¼ inches, inside diameter, on the top or side of the trap. If both of the openings are located on the side of the trap, at least one of the openings shall be located so that at least one-half of the opening is in the upper half of the trap.

(d) Subdivision (c) does not apply to crab traps used south of Point Conception.

(e) This section shall become operative on January 1, 1990.

SEC. 6. Section 16520 of the Fish and Game Code is amended to read:

16520. "Klamath Fishery Management Council" means that council created pursuant to Section 46055 of Title 16 of the United States Code which is composed of one representative each from the Pacific Fishery Management Council, National Marine Fisheries Service, Department of the Interior, Oregon Department of Fish and Wildlife, California Department of Fish and Game, the Hoopa Valley Business Council, non-Hoopa Indians, the California commercial salmon fishing industry, the Oregon commercial salmon fishing industry, the Klamath River in-river sportfishing community, and the California offshore recreational fishing industry.

SEC. 7. Section 16521 of the Fish and Game Code is repealed.

SEC. 8. Section 16530 of the Fish and Game Code is amended to read:

16530. The director may enter into a mutual agreement or

compact with the Hoopa Valley Business Council and with the Bureau of Indian Affairs acting as trustee for other Klamath River Basin tribes regarding the taking of fish from the Klamath River within the exterior boundaries of the Klamath River Reservation.

SEC. 9. Section 16531 of the Fish and Game Code is amended to read:

16531. Negotiations shall take place following the completion each year of the salmon allocation agreement recommended by the Klamath Fishery Management Council, and subsequently adopted by the Pacific Fishery Management Council and the United States Department of Commerce. Any agreement or compact under this division shall reflect those allocations.

SEC. 10. Section 16532 of the Fish and Game Code is amended to read:

16532. Notwithstanding Sections 8434, 8685.5, 8685.6, and 8685.7, the compact or agreement may include provisions for commercial sales of salmon allocated to qualified Indian members of the Klamath River Indian Tribes and that the salmon may be taken by traditional Indian methods, including, but not limited to, use of gill nets, if the agreement or compact includes provisions for all of the following:

(a) Separating the salmon taken for commercial purposes from the salmon taken for subsistence use, which may include tagging or marking of the salmon to be sold.

(b) Limiting the number of the salmon to be sold.

(c) A portion of the sales to benefit the members or programs of the Klamath River Indian Tribes in accordance with the wishes of the tribes or the Bureau of Indian Affairs acting on behalf of the tribes as trustee.

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.

CHAPTER 1423

An act to amend Sections 669, 1170, 1170.1, and 12022.2 of, and to repeal Section 12022.2 of, the Penal Code, relating to sentences.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 669 of the Penal Code is amended to read:

669. When any person is convicted of two or more crimes, whether in the same proceeding or court or in different proceedings

or courts, and whether by judgment rendered by the same judge or by different judges, the second or other subsequent judgment upon which sentence is ordered to be executed shall direct whether the terms of imprisonment or any of them to which he is sentenced shall run concurrently or consecutively; life sentences, whether with or without the possibility of parole, may be imposed to run consecutively with one another or with any other term of imprisonment for a felony conviction. Whenever a person is committed to prison on a life sentence which is ordered to run consecutive to any determinate term of imprisonment imposed pursuant to Sections 1170, 1170.1, 667, 667.5, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, and 12022.9, the determinate term of imprisonment shall be served first and no part thereof shall be credited toward the person's eligibility for parole as calculated pursuant to Section 3046 or pursuant to any other section of law that establishes a minimum period of confinement under the life sentence before eligibility for parole.

In the event that the court at the time of pronouncing the second or other judgment upon such person had no knowledge of a prior existing judgment or judgments, or having knowledge, fails to determine how the terms of imprisonment shall run in relation to each other, then, upon such failure so to determine, or upon such prior judgment or judgments being brought to the attention of the court at any time prior to the expiration of 60 days from and after the actual commencement of imprisonment upon the second or other subsequent judgments, the court shall, in the absence of the defendant and within 60 days of such notice, determine how the term of imprisonment upon said second or other subsequent judgment shall run with reference to the prior incompleted term or terms of imprisonment. Upon the failure of the court so to determine how the terms of imprisonment on the second or subsequent judgment shall run, the term of imprisonment on the second or subsequent judgment shall run concurrently.

The Department of Corrections shall advise the court pronouncing the second or other subsequent judgment of the existence of all prior judgments against the defendant, the terms of imprisonment upon which have not been completely served.

SEC. 1.5. Section 669 of the Penal Code is amended to read:

669. When any person is convicted of two or more crimes, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same judge or by different judges, the second or other subsequent judgment upon which sentence is ordered to be executed shall direct whether the terms of imprisonment or any of them to which he is sentenced shall run concurrently or consecutively; life sentences, whether with or without the possibility of parole, may be imposed to run consecutively with one another or with any other term of imprisonment for a felony conviction. Whenever a person is committed to prison on a life sentence which is ordered to run

consecutive to any determinate term of imprisonment imposed pursuant to Sections 1170, 1170.1, 667, 667.5, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, and 12022.9, the determinate term of imprisonment shall be served first and no part thereof shall be credited toward the person's eligibility for parole as calculated pursuant to Section 3046 or pursuant to any other section of law that establishes a minimum period of confinement under the life sentence before eligibility for parole.

In the event that the court at the time of pronouncing the second or other judgment upon such person had no knowledge of a prior existing judgment or judgments, or having knowledge, fails to determine how the terms of imprisonment shall run in relation to each other, then, upon such failure so to determine, or upon such prior judgment or judgments being brought to the attention of the court at any time prior to the expiration of 60 days from and after the actual commencement of imprisonment upon the second or other subsequent judgments, the court shall, in the absence of the defendant and within 60 days of such notice, determine how the term of imprisonment upon said second or other subsequent judgment shall run with reference to the prior incompleted term or terms of imprisonment. Upon the failure of the court so to determine how the terms of imprisonment on the second or subsequent judgment shall run, the term of imprisonment on the second or subsequent judgment shall run concurrently.

The Department of Corrections shall advise the court pronouncing the second or other subsequent judgment of the existence of all prior judgments against the defendant, the terms of imprisonment upon which have not been completely served.

SEC. 2. Section 1170 of the Penal Code is amended to read:

1170. (a) (1) The Legislature finds and declares that the purpose of imprisonment for crime is punishment. This purpose is best served by terms proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances. The Legislature further finds and declares that the elimination of disparity and the provision of uniformity of sentences can best be achieved by determinate sentences fixed by statute in proportion to the seriousness of the offense as determined by the Legislature to be imposed by the court with specified discretion.

(2) In any case in which the punishment prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison of 16 months, two or three years; two, three, or four years; two, three, or five years; three, four, or five years; two, four, or six years; three, four, or six years; three, five, or seven years; three, six, or eight years; five, seven, or nine years; five, seven, or 11 years, or any other specification of three time periods, the court shall sentence the defendant to one of the terms of imprisonment specified unless such convicted person is given any other disposition provided by law, including a fine, jail, probation, or the suspension

of imposition or execution of sentence or is sentenced pursuant to subdivision (b) of Section 1168 because he had committed his crime prior to July 1, 1977. In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council. The court, unless it determines that there are circumstances in mitigation of the punishment prescribed, shall also impose any other term which it is required by law to impose as an additional term. Nothing in this article shall affect any provision of law which imposes the death penalty, which authorizes or restricts the granting of probation or suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life. In any case in which the amount of preimprisonment credit under Section 2900.5 or any other provision of law is equal to or exceeds any sentence imposed pursuant to this chapter, the entire sentence, including any period of parole under Section 3000, shall be deemed to have been served and the defendant shall not be actually delivered to the custody of the Director of Corrections. However, any such sentence shall be deemed a separate prior prison term under Section 667.5, and a copy of the judgment and other necessary documentation shall be forwarded to the Director of Corrections.

(b) When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the court shall order imposition of the middle term, unless there are circumstances in aggravation or mitigation of the crime. At least four days prior to the time set for imposition of judgment, either party or the victim, or the family of the victim if the victim is deceased, may submit a statement in aggravation or mitigation to dispute facts in the record or the probation officer's report, or to present additional facts. In determining whether there are circumstances that justify imposition of the upper or lower term, the court may consider the record in the case, the probation officer's report, other reports including reports received pursuant to Section 1203.03 and statements in aggravation or mitigation submitted by the prosecution, the defendant, or the victim, or the family of the victim if the victim is deceased, and any further evidence introduced at the sentencing hearing. The court shall set forth on the record the facts and reasons for imposing the upper or lower term. The court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed under Section 667.5, 1170.1, 12022, 12022.4, 12022.5, 12022.6, or 12022.7 or under any other section of law. A term of imprisonment shall not be specified if imposition of sentence is suspended.

(c) The court shall state the reasons for its sentence choice on the record at the time of sentencing. The court shall also inform the defendant that as part of the sentence after expiration of the term he or she may be on parole for a period as provided in Section 3000.

(d) When a defendant subject to this section or subdivision (b) of Section 1168 has been sentenced to be imprisoned in the state prison and has been committed to the custody of the Director of Corrections, the court may, within 120 days of the date of

commitment on its own motion, or at any time upon the recommendation of the Director of Corrections or the Board of Prison Terms, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he or she had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. The resentence under this subdivision shall apply the sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(e) Any sentence imposed under this article shall be subject to the provisions of Sections 3000 and 3057 and any other applicable provisions of law.

(f) (1) Within one year after the commencement of the term of imprisonment, the Board of Prison Terms shall review the sentence to determine whether the sentence is disparate in comparison with the sentences imposed in similar cases. If the Board of Prison Terms determines that the sentence is disparate, the board shall notify the judge, the district attorney, the defense attorney, the defendant, and the Judicial Council. The notification shall include a statement of the reasons for finding the sentence disparate.

Within 120 days of receipt of this information, the sentencing court shall schedule a hearing and may recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if the defendant had not been sentenced previously, provided the new sentence is no greater than the initial sentence. In resentencing under this subdivision the court shall apply the sentencing rules of the Judicial Council and shall consider the information provided by the Board of Prison Terms.

(2) The review under this section shall concern the decision to deny probation and the sentencing decisions enumerated in paragraphs (2), (3), (4), and (5) of subdivision (a) of Section 1170.3 and apply the sentencing rules of the Judicial Council and the information regarding the sentences in this state of other persons convicted of similar crimes so as to eliminate disparity of sentences and to promote uniformity of sentencing.

(g) Prior to sentencing pursuant to this chapter, the court may request information from the Board of Prison Terms concerning the sentences in this state of other persons convicted of similar crimes under similar circumstances.

(h) A sentence to state prison for a determinate term for which only one term is specified, is a sentence to state prison under this section.

SEC. 3. Section 1170.1 of the Penal Code is amended to read:

1170.1. (a) Except as provided in subdivision (c) and subject to Section 654, when any person is convicted of two or more felonies, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same or by a different court, and a consecutive term of imprisonment is imposed

under Sections 669 and 1170, the aggregate term of imprisonment for all these convictions shall be the sum of the principal term, the subordinate term and any additional term imposed pursuant to Section 667, 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 667.8, 667.85, 12022, 12022.2, 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 667.8, 667.85, 12022, 12022.2, 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 667.8, 667.85, 12022, 12022.2, 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, 667.5, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, and 12022.9, unless the additional punishment therefor is stricken pursuant to subdivision (h). 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 penetration of a genital or anal opening by a foreign object, as defined in Section 289, oral copulation, sodomy, robbery, rape or burglary, or attempted penetration of a genital or anal opening by a foreign object, oral copulation, sodomy, robbery, rape, murder, 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) one enhancement for great bodily injury as provided in either Section 12022.7 or 12022.9.

(f) The enhancements provided in Sections 667, 667.5, 667.6, 667.8, 667.85, 12022, 12022.1, 12022.2, 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 (b) or (c) of this section, or an enhancement is imposed pursuant to Section 667, 667.8, 667.85, 12022, 12022.2, 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 or she 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, 667.8, 667.85, 12022, 12022.2, 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, subdivision (a) of Section 289, or sodomy or oral copulation by force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person 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. 3.1. 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, 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 667.8, 667.85, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, 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 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.7, 12022.75, 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 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.7, 12022.75, 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, 667.5, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, and 12022.9, unless the additional punishment therefor is stricken pursuant to subdivision (h). 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 penetration of a genital or anal opening by a foreign object, as defined in Section 289, oral copulation, sodomy, robbery, rape or burglary, or attempted penetration of a genital or anal opening by a foreign object, oral copulation, sodomy, robbery, rape, murder, 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) one enhancement for great bodily injury as provided in either Section 12022.7 or 12022.9.

(f) The enhancements provided in Sections 667, 667.5, 667.6, 667.8, 667.85, 12022, 12022.1, 12022.2, 12022.3, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, 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 (b) or (c) of this section, or an enhancement is imposed pursuant to Section 667, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, or 12022.9 or the defendant stands convicted of felony escape from an institution in which he or she 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, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, 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, subdivision (a) of Section 289, or sodomy or oral copulation by force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person 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. 3.2. 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, 667.5, 667.6, or 12022.1, and pursuant to Section 11370.2 of the Health and Safety Code. 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 667.8, 667.85, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.6, 12022.7, 12022.8, or 12022.9 and an enhancement imposed pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code. 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 667.8, 667.85, 12022, 12022.2, 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 667.8, 667.85, 12022, 12022.2, 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, 667.5, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, and 12022.9, and the additional terms provided in Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, unless the additional punishment therefor is stricken pursuant to subdivision (h). 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 penetration of a genital or anal opening by a foreign object, as defined in Section 289, oral copulation, sodomy, robbery, rape or burglary, or attempted penetration of a genital or anal opening by a foreign object, oral copulation, sodomy, robbery, rape, murder, 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) one enhancement for great bodily injury as provided in Section 12022.7 or 12022.9.

(f) The enhancements provided in Sections 667, 667.5, 667.6, 667.8,

667.85, 12022, 12022.1, 12022.2, 12022.3, 12022.4, 12022.5, 12022.6, 12022.7, 12022.8, and 12022.9 and in Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, 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 (b) or (c) of this section, or an enhancement is imposed pursuant to Section 667, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, or 12022.9, or an enhancement is being imposed pursuant to Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, or the defendant stands convicted of felony escape from an institution in which he or she 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, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, and 12022.9, or the enhancements provided in Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, 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, subdivision (a) of Section 289, or sodomy or oral copulation by force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person 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. 3.3. Section 1170.1 of the Penal Code is amended to read:

1170.1. (a) Except as provided in subdivision (c) and subject to Section 654, when any person is convicted of two or more felonies, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same or by a different court, and a consecutive term of imprisonment is imposed under Sections 669 and 1170, the aggregate term of imprisonment for all these convictions shall be the sum of the principal term, the subordinate term and any additional term imposed pursuant to Section 667, 667.5, 667.6, or 12022.1, and pursuant to Section 11370.2 of the Health and Safety Code. 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 667.8, 667.85, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, 12022.8, or 12022.9 and an enhancement imposed pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code. 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 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.7, 12022.75, 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 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.7, 12022.75, 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, 667.5, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, and 12022.9, and the additional terms provided in Section 11370.2, 11370.4, or 11379.8 of

the Health and Safety Code, unless the additional punishment therefor is stricken pursuant to subdivision (h). 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 penetration of a genital or anal opening by a foreign object, as defined in Section 289, oral copulation, sodomy, robbery, rape or burglary, or attempted penetration of a genital or anal opening by a foreign object, oral copulation, sodomy, robbery, rape, murder, 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) one enhancement for great bodily injury as provided in either Section 12022.7 or 12022.9.

(f) The enhancements provided in Sections 667, 667.5, 667.6, 667.8, 667.85, 12022, 12022.1, 12022.2, 12022.3, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, 12022.8, and 12022.9, and in Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, 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 (b) or (c) of this section, or an enhancement is imposed pursuant to Section 667, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, or 12022.9, or an enhancement is being imposed pursuant to Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, or the defendant stands convicted of felony escape from an institution in which he or she 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, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, and 12022.9, or the enhancements provided in Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, 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, subdivision (a) of Section 289, or sodomy or oral copulation by force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person 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. 3.4. 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, 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 667.8, 667.85, 12022, 12022.2, 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) or (9) 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 667.8, 667.85, 12022, 12022.2, 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 667.8, 667.85, 12022, 12022.2, 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, 667.5, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, and 12022.9, unless the additional punishment therefor is stricken pursuant to subdivision (h). 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 penetration of a genital or anal opening by a foreign object, as defined in Section 289, oral copulation, sodomy, robbery, rape or burglary, or attempted penetration of a genital or anal opening by a foreign object, oral copulation, sodomy, robbery, rape, murder, 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) one enhancement for great bodily injury as provided in Section 12022.7 or 12022.9.

(f) The enhancements provided in Sections 667, 667.5, 667.6, 667.8, 667.85, 12022, 12022.1, 12022.2, 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 (b) or (c) of this section, or an enhancement is imposed pursuant to Section 667, 667.8, 667.85, 12022, 12022.2, 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 or she 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, 667.8, 667.85, 12022, 12022.2, 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, subdivision (a) of Section 289, or sodomy or oral copulation by force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person as provided in Section 286 or 288a, the number of enhancements which may be imposed shall not be limited, regardless of whether such enhancements are pursuant to this or some other section of law. Each of such enhancements shall be a full and separately served enhancement and shall not be merged with any term or with any other enhancement.

SEC. 3.5. Section 1170.1 of the Penal Code is amended to read:

1170.1. (a) Except as provided in subdivision (c) and subject to Section 654, when any person is convicted of two or more felonies, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same or by a different court, and a consecutive term of imprisonment is imposed under Sections 669 and 1170, the aggregate term of imprisonment for all these convictions shall be the sum of the principal term, the subordinate term and any additional term imposed pursuant to Section 667, 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 667.8, 667.85, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, 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) or (9) 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 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.7, 12022.75, 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 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.7, 12022.75, 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, 667.5, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, and 12022.9, unless the additional punishment therefor is stricken pursuant to subdivision (h). 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 penetration of a genital or anal opening by a foreign object, as defined in Section 289, oral copulation, sodomy, robbery, rape or burglary, or attempted penetration of a genital or anal opening by a foreign object, oral copulation, sodomy, robbery, rape, murder, 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) one enhancement for great bodily injury as provided in either Section 12022.7 or 12022.9.

(f) The enhancements provided in Sections 667, 667.5, 667.6, 667.8, 667.85, 12022, 12022.1, 12022.2, 12022.3, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, 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 (b) or (c) of this section, or an enhancement is imposed pursuant to Section 667, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, or 12022.9 or the defendant stands convicted of felony escape from an institution in which he or she 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, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, 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, subdivision (a) of Section 289, or sodomy or oral copulation by force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person 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. 3.6. 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, 667.5, 667.6, or 12022.1, and pursuant to Section 11370.2 of the Health and Safety Code. 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 667.8, 667.85, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.6, 12022.7, 12022.8, or 12022.9 and an enhancement imposed pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code. 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) or (9) 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 667.8, 667.85, 12022, 12022.2, 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 667.8, 667.85, 12022, 12022.2, 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, 667.5, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, and 12022.9, and the additional terms provided in Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, unless the additional punishment therefor is stricken pursuant to subdivision (h). 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 penetration of a genital or anal opening by a foreign object, as defined in Section 289, oral copulation, sodomy, robbery, rape or burglary, or attempted penetration of a genital or anal opening by a foreign object, oral copulation, sodomy, robbery, rape, murder, 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) one enhancement for great bodily injury as provided in Section 12022.7 or 12022.9.

(f) The enhancements provided in Sections 667, 667.5, 667.6, 667.8, 667.85, 12022, 12022.1, 12022.2, 12022.3, 12022.4, 12022.5, 12022.6, 12022.7, 12022.8, and 12022.9 and in Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, 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 (b) or (c) of this section, or an enhancement is imposed pursuant to Section 667, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, or 12022.9, or an enhancement is being imposed pursuant to Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, or the defendant stands convicted of felony escape from an institution in which he or she 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, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, and 12022.9, or the enhancements provided in Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, 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, subdivision (a) of Section 289, or sodomy or oral copulation by force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person 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. 3.7. 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, 667.5, 667.6, or 12022.1, and pursuant to Section 11370.2 of the Health and Safety Code. 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 667.8, 667.85, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, 12022.8, or 12022.9 and an enhancement imposed pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code. 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) or (9) 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 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.7, 12022.75, 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 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.7, 12022.75, 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, 667.5, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, and 12022.9, and the additional terms provided in Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, unless the additional punishment therefor is stricken pursuant to subdivision (h). 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 penetration of a genital or anal opening by a foreign object, as defined in Section 289, oral copulation, sodomy, robbery, rape or burglary, or attempted penetration of a genital or anal opening by a foreign object, oral copulation, sodomy, robbery, rape, murder, 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) one enhancement for great bodily injury as provided in either Section 12022.7 or 12022.9.

(f) The enhancements provided in Sections 667, 667.5, 667.6, 667.8, 667.85, 12022, 12022.1, 12022.2, 12022.3, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, 12022.8, and 12022.9, and in Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, 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 (b) or (c) of this section, or an enhancement is imposed pursuant to Section 667, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, or 12022.9, or an enhancement is being imposed pursuant to Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, or the defendant stands convicted of felony escape from an institution in which he or she 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, 667.8, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, and 12022.9, or the enhancements provided in Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, 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, subdivision (a) of Section 289, or sodomy or oral copulation by force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person as provided in Section 286 or 288a, the number of enhancements which may be imposed shall not be limited, regardless of whether such enhancements are pursuant to this or some other section of law. Each of such enhancements shall be a full and separately served enhancement and shall not be merged with any term or with any other enhancement.

SEC. 4. Section 12022.2 of the Penal Code, as added by Chapter 949 of the Statutes of 1982, is repealed.

SEC. 5. Section 12022.2 of the Penal Code, as added by Chapter 950 of the Statutes of 1982, is amended to read:

12022.2. Any person who, while armed with a firearm in the commission or attempted commission of any felony, has in his or her immediate possession ammunition for such firearm designed primarily to penetrate metal or armor, shall upon conviction of that felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony, be punished by an additional term of three years.

SEC. 6. Section 1.5 of this bill incorporates amendments to Section 669 of the Penal Code proposed by both this bill and AB 1152. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1988, (2) each bill amends Section 669 of the Penal Code, and (3) this bill is enacted after AB 1152, in which case Section 1 of this bill shall not become operative.

SEC. 7. (a) Section 3.1 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by both this bill and AB 1152. It shall only become operative if (1) both bills are enacted and become effective January 1, 1988, (2) each bill amends Section 1170.1 of the Penal Code, and (3) AB 2504 is not enacted or as enacted does not amend that section, (4) AB 1559 is not enacted or as enacted does not amend that section and (5) this bill is enacted after AB 1152, in which case Sections 3, 3.2, 3.3, 3.4, 3.5, 3.6, and 3.7 of this bill shall not become operative.

(b) Section 3.2 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by both this bill and AB 2504. It shall only become operative if (1) both bills are enacted and become effective January 1, 1988, (2) each bill amends Section 1170.1 of the Penal Code, (3) AB 1152 is not enacted or as enacted does not amend that section, (4) AB 1559 is not enacted or as enacted does not amend that section and (5) this bill is enacted after AB 2504 in which case Sections 3, 3.1 and 3.3, 3.4, 3.5, 3.6, and 3.7 of this bill shall not become operative.

(c) Section 3.3 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by this bill, AB 2504, and AB 1152.

It shall only become operative if (1) this bill, AB 2504, and AB 1152 are enacted and become effective January 1, 1988, (2) this bill, AB 2504, and AB 1152 amend Section 1170.1 of the Penal Code, (3) AB 1559 is not enacted or as enacted does not amend that section, (4) this bill is enacted after AB 2504 and AB 1152, in which case Sections 3, 3.1, 3.2, 3.4, 3.5, 3.6, and 3.7 of this bill shall not become operative.

(d) Section 3.4 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by both this bill and AB 1559. It shall only become operative if (1) both bills are enacted and become effective January 1, 1988, (2) each bill amends Section 1170.1 of the Penal Code, (3) AB 1152 is not enacted or as enacted does not amend that section, (4) AB 2504 is not enacted or as enacted does not amend that section, and (5) this bill is enacted after AB 1559, in which case Sections 3, 3.1, 3.2, 3.3, 3.5, 3.6, and 3.7 of this bill shall not become operative.

(e) Section 3.5 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by this bill, AB 1152, and AB 1559. It shall only become operative if (1) this bill, AB 1152, and AB 1559 are enacted and become effective January 1, 1988, (2) this bill, AB 1152, and AB 1559 amend Section 1170.1 of the Penal Code, (3) AB 2504 is not enacted or as enacted does not amend that section, (4) this bill is enacted after AB 1152 and AB 1559, in which case Sections 3, 3.1, 3.2, 3.3, 3.4, 3.6, and 3.7 of this bill shall not become operative.

(f) Section 3 6 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by this bill, AB 2504, and AB 1559. It shall only become operative if (1) this bill, AB 2504, and AB 1559 are enacted and become effective January 1, 1988, (2) this bill, AB 2504, and AB 1559 amend Section 1170.1 of the Penal Code, (3) AB 1152 is not enacted or as enacted does not amend that section, (4) this bill is enacted after AB 2504 and AB 1559, in which case Sections 3, 3.1, 3.2, 3.3, 3.4, 3.5, and 3.7 of this bill shall not become operative.

(g) Section 3.7 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by this bill, AB 1152, AB 1559, and AB 2504. It shall only become operative if (1) all four bills are enacted and become effective January 1, 1988, (2) all four bills amend Section 1170.1 of the Penal Code, (3) this bill is enacted after AB 1152, AB 1559, and AB 2504, in which case Sections 3, 3.1, 3.2, 3.3, 3.4, 3.5, and 3.6 of this bill shall not become operative.

CHAPTER 1424

An act to amend Section 971 of, to add Section 972.5 to, and to add Chapter 2 (commencing with Section 720) to Division 4 of, the Military and Veterans Code, relating to veterans.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Chapter 2 (commencing with Section 720) is added to Division 4 of the Military and Veterans Code, to read:

CHAPTER 2. RENDERING AND RECOVERY FOR BENEFITS

720. Every state and local public agency shall render the service or provide the benefits or assistance it provides to the public to every veteran on the same basis as to any other eligible person.

721. If any public agency which has rendered a service, provided benefits, or furnished assistance to a veteran determines that the costs of rendering the service or providing the benefits or assistance are recoverable from the Veterans' Administration, it shall refer the matter to the county veteran service officer, where applicable, for action pursuant to Section 971 and shall assist the county veteran service officer in any way.

SEC. 2. Section 971 of the Military and Veterans Code is amended to read:

971. (a) The county veteran service officer shall assist every veteran of any war of the United States and the dependents of every deceased veteran in presenting and pursuing any claim the veteran may have against the United States and in establishing the veteran's right to any privilege, preference, care, or compensation provided for by the laws of the United States or of this state.

(b) The county veteran service officer shall present and pursue claims against the United States referred by any public agency pursuant to Section 721.

SEC. 3. Section 972.5 is added to the Military and Veterans Code, to read:

972.5. (a) The Department of Veterans Affairs, may enter into an agreement with the State Department of Health Services for purposes of obtaining federal matching funds for the Department of Veterans Affairs to contribute toward the salaries and expenses of county veteran service officers for their activities which are reasonably related to the programs of the State Department of Health Services which are benefited, or realize cost avoidance, as a result of the services of those officers.

(b) The agreement entered into pursuant to this section shall provide that federal matching funds will be distributed to counties

only if the funds are available and the county maintains or increases its 1986–87 fiscal year contribution to veteran service officer funding. All sums received pursuant to this section are in augmentation of the state funds for this purpose made available pursuant to Section 972.

(c) The sum obtained each fiscal year pursuant to subdivision (a) shall be disbursed by the Department of Veterans Affairs to counties for payment of salaries and expenses of county veteran service officers. The Department of Veterans Affairs shall make the disbursement to a county on a pro rata basis in accordance with the actual workload of each county veteran service officer under a formula based on performance to be developed by the Department of Veterans Affairs for these purposes.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1425

An act to amend Sections 1296, 1327, and 1329.5 of the Health and Safety Code, relating to health.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 1296 of the Health and Safety Code is amended to read:

1296. The director may temporarily suspend any license or special permit prior to any hearing, when in his or her opinion the action is necessary to protect the public welfare. The director shall notify the licensee or holder of a special permit of the temporary suspension and the effective date thereof and at the same time shall serve the provider with an accusation. Upon receipt of a notice of defense by the licensee or holder of a special permit, the director shall within 15 days set the matter for hearing, which shall be held as soon as possible but not later than 30 days after receipt of the notice. The temporary suspension shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing

has been completed.

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

SEC. 2. Section 1327 of the Health and Safety Code is amended to read:

1327. (a) Whenever circumstances exist indicating that continued management of a long-term health care facility by the current licensee would present a substantial probability or imminent danger of serious physical harm or death to the patients, or there exists in the facility a condition in substantial violation of this chapter or the rules and regulations adopted pursuant to this chapter, or the facility exhibits a pattern or practice of habitual violation of this chapter or the rules and regulations adopted pursuant thereto, or the facility is closing or intends to terminate operation as a licensed long-term health care facility and adequate arrangements for relocation of residents have not been made at least 30 days prior to the closing or termination, the director may petition the superior court for the county in which the long-term health care facility is located for an order appointing a receiver to temporarily operate the long-term health care facility in accordance with this article.

The petition shall allege the facts upon which the action is based and shall be supported by an affidavit of the director. A copy of the petition and affidavits, together with an order to appear and show cause why temporary authority to operate the long-term health care facility should not be vested in a receiver pursuant to this article, shall be delivered to the licensee, administrator, or a responsible person at the facility to the attention of the licensee and administrator. The order shall specify a hearing date, which shall be not less than five, nor more than 10, days following delivery of the petition and order upon the licensee, except that the court may shorten or lengthen the time upon a showing of just cause.

(b) If the director files a petition pursuant to subdivision (a) for appointment of a receiver to operate a long-term health care facility, in accordance with Section 564 of the Code of Civil Procedure, the director may also petition the court, in accordance with Section 527 of the Code of Civil Procedure, for an order appointing a temporary receiver. A temporary receiver appointed by the court pursuant to this subdivision shall serve until the court has made a final determination on the petition for appointment of a receiver filed pursuant to subdivision (a). A receiver appointed pursuant to this subdivision shall have the same powers and duties as a receiver would have if appointed pursuant to subdivision (a).

At the time of the hearing, the state department shall advise the licensee of the name of the proposed receiver. The receiver shall be

a licensed nursing home administrator or other responsible person or entity, as determined by the court, from a list of qualified receivers established by the state department, with input from providers of long-term care and consumer representatives. The department shall consult with the Board of Examiners of Nursing Home Administrators, in order to screen potential receivers who are licensed by the board, and to determine if they are administrators in good standing. Persons appearing on the list shall have experience in the delivery of health care services, and, if feasible, shall have experience with the operation of a long-term health care facility. The receivers shall have sufficient background and experience in management and finances to ensure compliance with orders issued by the court. The owner, licensee, or administrator shall not be appointed as the receiver unless authorized by the court.

If at the conclusion of the hearing, which may include oral testimony and cross-examination at the option of any party, the court determines that adequate grounds exist for the appointment of a receiver and that there is no other reasonably available remedy to protect the patients, the court may issue an order appointing a receiver to temporarily operate the long-term health care facility and enjoining the licensee from interfering with the receiver in the conduct of his or her duties. The court shall in any such proceedings make written findings of fact and conclusions of law, and shall require an appropriate bond to be filed by the receiver and paid for by the licensee. The bond shall be in an amount necessary to protect the licensee in the event of any failure on the part of the receiver to act in a reasonable manner. The bond requirement may be waived by the licensee.

The court may permit the licensee to participate in the continued operation of the facility during the pendency of any receivership ordered pursuant to this section and shall issue an order detailing the nature and scope of participation.

Failure of the licensee to appear at the hearing on the petition shall constitute an admission of all factual allegations contained in the petition for purposes of these proceedings only.

The licensee shall receive notice and a copy of the application each time the receiver applies to the court or the state department for instructions regarding his or her duties under the provisions of this article, when an accounting pursuant to Section 1330 is submitted, and when a report pursuant to Section 1332 or other report is submitted. The licensee shall have an opportunity to present objections or otherwise participate in any such proceeding.

SEC. 3. Section 1329.5 of the Health and Safety Code is amended to read:

1329.5. (a) A receiver may not be required to honor any lease, mortgage, or secured transaction entered into by the licensee of the facility and another party if the court finds that the agreement between the parties was entered into for a collusive, fraudulent purpose or that the agreement is unrelated to the operation of the

facility.

Any lease, mortgage, or secured transaction or any agreement unrelated to the operation of the facility which the receiver is permitted to dishonor pursuant to this subdivision shall only be subject to nonpayment by the receiver for the duration of the receivership, and the dishonoring of the lease, mortgage, security interest, or other agreement, to this extent, by the receiver shall not relieve the owner or operator of the facility from any liability for the full amount due under the lease, mortgage, security interest, or other agreement.

(b) If the receiver is in possession of real estate or goods subject to a lease, mortgage, or security interest which the receiver is permitted to avoid pursuant to subdivision (a), and if the real estate or goods are necessary for the continued operation of the facility, the receiver may apply to the court to set a reasonable rent, price, or rate of interest to be paid by the receiver during the duration of the receivership. The court shall hold a hearing on this application within 15 days. The receiver shall send notice of the application to any known owner of the property involved at least 10 days prior to the hearing.

Payment by the receiver of the amount determined by the court to be reasonable is a defense to any action against the receiver for payment or possession of the goods or real estate, subject to the lease or mortgage, which is brought by any person who received the notice required by this subdivision. However, payment by the receiver of the amount determined by the court to be reasonable shall not relieve the owner or operator of the facility from any liability for the difference between the amount paid by the receiver and the amount due under the original lease, mortgage, or security interest.

CHAPTER 1426

An act to amend Sections 15430, 15432, 15438, 15438.5, 15441, 15446, 15454, 15462, and 15462.5 of, and to add Section 15451.5 to, the Government Code, relating to health facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 15430 of the Government Code is amended to read:

15430. This part shall be known and may be cited as the California Health Facilities Financing Authority Act.

SEC. 2. Section 15432 of the Government Code is amended to read:

15432. As used in this part, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means the California Health Facilities Financing Authority Act.

(b) "Authority" means the California Health Facilities Financing Authority created by this part or any board, body, commission, department, or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law.

(c) "Cost," as applied to a project or portion 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 the later of one year or one year following completion of construction, as determined by the authority, the cost of funding or financing noncapital expenses, 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 of funding or financing or 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, community clinics, as defined in paragraph (6), and child day care facilities, as defined in paragraph (10), 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.

(10) A child day care facility operated in conjunction with a health

facility. A child day care facility is a facility, as defined in Section 1596.750 of the Health and Safety Code. For purposes of this paragraph, "child" means a minor from birth to 18 years of age.

"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" also includes: (i) an insurance company or insurance program organized pursuant to subdivision (q) of Section 15438; or (ii) the funding of reserves (including insurance or capital reserves), or payment of premiums to, a reciprocal insurance company or one or more participating health institutions if the funds are used in connection with one or more of the above types of facilities: liability insurance or self-insurance, for a participating health institution, including reserves therefor, and other funds necessary or usual and appropriate in connection therewith.

"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, or funding or financing 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 participating health institution 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, 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. 3. 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, fund, finance, 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, interest rate swaps or hedges, 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.

(q) Establish and maintain a reciprocal insurance company or an insurance program that shall be treated and licensed as a reciprocal insurance company for regulatory purposes under the Insurance Code on behalf of one or more participating health institutions, to provide for payment of judgments, settlement of claims, expense, loss and damage that arises, or is claimed to have arisen, from any act or omission of, or attributable to, the participating health institution or any nonprofit organization controlled by, or controlling or under common control with, the participating health institution, their employees, agents or others for whom they may be held responsible, in connection with any liability insurance (including medical malpractice); set premiums, ascertain loss experience and expenses and determine credits, refunds, and assessments; and establish limits and terms of coverage; and engage any expert or consultant it deems necessary or appropriate to manage or otherwise assist with the insurance company or program; and pay any expenses in connection therewith; and contract with the participating health institution or institutions for insurance coverage from the insurance company or program and for the payment of any expenses in connection therewith including any bonds issued to fund or finance the insurance company or program.

(r) Provide funding for self-insurance for participating health institutions, provided that there shall be no pooling of liability risk among participating health institutions except as provided in subdivision (f) of Section 15438.5.

SEC. 4. 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 financing or refinancing as provided in this part.

(e) The financing or refinancing of projects or working capital for cities, cities and counties, counties, or hospital districts may be provided pursuant to this part by means other than revenue bonds, at the discretion of the authority, including, without limitation, through certificates of participation, or other interests, in bonds, loans, leases, installment sales or other agreements of the cities, city and county, counties or hospital districts. In this connection, the authority may do all things and execute and deliver all documents and instruments as may be necessary or desirable in connection with issuance of the certificates of participation or other means of financing or refinancing.

(f) Any self-insurance pooling program entered into by participating health institutions which are cities, counties, cities and counties, or hospital districts which is funded or financed in whole or in part with proceeds of the sale of revenue bonds or certificates of participation pursuant to this part shall not be subject to regulation of any kind under the Insurance Code or otherwise as insurance, but only any conditions and restrictions as may be imposed by the authority.

SEC. 5. Section 15441 of the Government Code is amended to read:

15441. (a) The authority is authorized, from time to time, to issue its negotiable revenue bonds in order to provide funds for achieving any of its purposes under this part.

(b) Except as may otherwise be expressly provided by the authority, each of its revenue bonds shall be payable from any revenues or moneys of the authority available therefor and not otherwise pledged, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or moneys. Notwithstanding that such revenue bonds may be payable from a special fund, they shall be and be deemed to be for all purposes negotiable instruments, subject only to the provisions of such bonds for registration.

(c) The authority's revenue bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The issuance of all revenue bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times, not exceeding 40 years from their respective dates, bear interest at such rate or rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as the indenture, trust agreement, or resolution relating to such revenue bonds may provide. The authority's revenue bonds or notes may be sold by the Treasurer at public or private sale, after giving due consideration to the recommendation of the participating health institution, for such price or prices and upon such terms and conditions as the authority shall determine. The Treasurer may sell any such revenue bonds at a price below the par value thereof. However, the discount on any bonds so sold shall not exceed 6 percent of the par value thereof, except in the case of any bonds payable in whole or in part from moneys held under one or more outstanding resolutions or indentures. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates or temporary bonds which shall be exchanged for such definitive bonds.

(d) Any resolution or resolutions authorizing the issuance of any revenue bonds or any issue of revenue bonds may contain provisions, which shall be a part of the contract with the holders of the bonds

to be authorized, as to pledging all or any part of the revenues of a project or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation or association or other body, public or private, to secure the payment of the bonds or of any particular issue of bonds.

(e) Neither the members of the authority nor any person executing the revenue bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

(f) The authority shall have power out of any funds available therefor to purchase its bonds. The authority may hold, pledge, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

SEC. 6. Section 15446 of the Government Code is amended to read:

15446. (a) The authority may provide for the issuance of bonds of the authority for the purpose of refunding any bonds or any series or issue of bonds of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption, purchase, or maturity of the 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, redemption prior to maturity, or retirement at maturity of any outstanding bonds on their earliest redemption date or dates, upon their purchase or maturity, or paid to a third person to assume the authority's obligation to make the payments, and may, pending that application, be placed in escrow to be applied to the purchase, retirement at maturity, or redemption on the date or dates determined by the authority.

(c) Any proceeds placed in escrow may, pending their use, be invested and reinvested in obligations or securities authorized by resolutions of the authority, payable or maturing at the time or times as are appropriate to assure the prompt payment of the principal, interest, and redemption premium, if any, of the outstanding bonds to be refunded at maturity or redemption of the bonds to be refunded either at their earliest redemption date or dates or any subsequent redemption date or dates or for payment of interest on the refunding bonds on or prior to the final date of redemption or payment of the bonds to be refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of the proceeds and interest, income and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by the authority.

(d) All of the refunding bonds are subject to this part in the same manner and to the same extent as other bonds issued pursuant to this part.

SEC. 7. Section 15451.5 is added to the Government Code, to read:

15451.5. A participating health institution that is a private nonprofit corporation or association and that borrows money to finance working capital pursuant to this part, other than as part of the cost of a project, shall be required to repay and discharge the loan within 15 months of the loan date.

SEC. 8. 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, or any similar provision regarding the maximum amount of outstanding bonds, 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 or 15462.5.

(e) Liability insurance coverage for one or more participating health institutions or self-insurance for a participating health institution.

SEC. 9. Section 15462 of the Government Code is amended to read:

15462. Exclusively for the purpose of securing the financing of projects or working capital pursuant to this part through the issuance of revenue bonds, certificates of participation, or other means, and notwithstanding any other provision of law, any city, city and county, county, or local hospital district may issue bonds to the authority or borrow money from the authority at the interest rate or rates, with the maturity date or dates, payment, security, default, remedy, and other terms as specified in the bonds of the city, city and county, county, or local hospital district or 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 or any other agreement or instrument that may be necessary or appropriate in connection with any of the foregoing. 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 provisions for payment or security or 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. 10. Section 15462.5 of the Government Code is amended to read:

15462.5. Exclusively for the purpose of securing the financing of projects pursuant to this part or through the issuance of revenue bonds, certificates of participation, or other means, and notwithstanding any other law, any city, city and county, county, or hospital district may buy or lease health facilities from the authority, and in connection therewith, sell or lease health facilities to the authority, in each case with the installment payment or rental provisions, term, payment, security, default, remedy, and other terms or provisions as may be specified in the installment sale, lease, or other agreement or agreements, 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 it may deem necessary or appropriate in connection therewith. This section provides a complete, additional, and alternative method for performing the acts authorized by this section, and any sale or lease of health facilities to the authority, any purchase or lease of health facilities from the authority, and any provisions for payment and security or any agreement for liquidity or credit enhancement in connection therewith, pursuant to this section, need not comply with the requirements of any other law applicable to sale, purchase, lease, pledge, encumbrance, or credit, as the case may be, by a city, city and county, county, or hospital district.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the California Health Facilities Financing Authority be able to finance necessary insurance and other needs of health facilities, it is necessary that this act take effect immediately.

CHAPTER 1427

An act to add Section 199.27 to the Health and Safety Code, relating to AIDS.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 199.27 is added to the Health and Safety Code, to read:

199.27. (a) (1) When the subject of a blood test to detect antibodies to the probable causative agent of AIDS is not competent to give consent for the test to be performed, written consent for the test may be obtained from the subject's parents, guardians, conservators, or other person lawfully authorized to make health

care decisions for the subject. For purposes of this paragraph, a minor shall be deemed not competent to give consent if he or she is under 12 years of age.

(2) Notwithstanding paragraph (1), when the subject of the test is a minor adjudged to be a dependent child of the court pursuant to Section 360 of the Welfare and Institutions Code, written consent for the test to be performed may be obtained from the court pursuant to its authority under Section 362 or 369 of the Welfare and Institutions Code.

(b) Written consent shall only be obtained for the subject pursuant to subdivision (a) when necessary to render appropriate care or to practice preventative measures.

(b) The person authorized to consent to the test pursuant to subdivision (a) shall be permitted to do any of the following:

(1) Notwithstanding Sections 199.20 and 199.21, receive the results of the test on behalf of the subject without written authorization.

(2) Disclose the test results on behalf of the subject in accordance with Section 199.20 and 199.21.

(3) Provide written authorization for the disclosure of the test results on behalf of the subject in accordance with Sections 199.20 and 199.21.

CHAPTER 1428

An act to amend Sections 17053.8, 17053.11, 24331, and 24333 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. 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 one.

(2) Forty percent for qualified wages in year two.

(3) Thirty percent for qualified wages in year three.

(4) Twenty percent for qualified wages in year four.

(5) Ten percent for qualified wages in year five.

(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. "Qualified wages" means that portion of hourly wages

which does not exceed 150 percent of the minimum wage.

(2) "Qualified years one through five 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 is any of the following:

(i) An individual who has been determined eligible by the administrative entity of a service delivery area for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.) and who is receiving subsidized employment, training, or services funded by the federal Job Training Partnership Act, except for an individual who only receives outreach, intake, or assessment services or a combination thereof.

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) Any voluntary or mandatory registrant for the Work Incentive Demonstration Program provided for pursuant to Section 11347 of the Welfare and Institutions Code.

(iv) Any voluntary or mandatory registrant for the Employment Preparation Program provided for pursuant to Article 3.5 (commencing with Section 11325) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(v) Any individual who has been certified eligible by the California Employment Development Department under the federal Targeted Jobs Tax Credit Program as long as that program is in effect.

(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. 2. 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 either (A) a qualified business, as defined in Section 7082 of the Government Code, or (B) a qualified

business, as defined in Section 7082 of the Government Code, except that the percentage requirements with respect to employment of residents of a high-density unemployment area shall be applicable only to those employees hired within the 12 months immediately preceding the date that the business seeks certification from the Department of Commerce and not to the entire workforce of the business. A business that qualifies under clause (B) shall be a qualified business only for the purposes of this section, provided that the Department of Commerce certifies that the business meets the standards set forth in this paragraph.

(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. For the purposes of this section, participation by a prospective employee in a state or federally funded job training or work demonstration program shall not constitute employment, or effect the eligibility of an otherwise qualified employee. Qualified employee includes an otherwise qualified employee who is employed by a qualified business in the 90 days prior to its certification by the Department of Commerce as a qualified business for the purpose of becoming eligible for that certification.

(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 hourly 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 taxable 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. 3. 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 one.

(2) Forty percent for qualified wages in year two.

(3) Thirty percent for qualified wages in year three.

(4) Twenty percent for qualified wages in year four.

(5) Ten percent for qualified wages in year five.

(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. "Qualified wages" means that portion of hourly wages which does not exceed 150 percent of the minimum wage.

(2) "Qualified years one through five 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 is any of the following:

(i) An individual who has been determined eligible by the administrative entity of a service delivery area for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.) and who is receiving subsidized employment, training, or services funded by the federal Job Training Partnership Act, except for an individual who only receives outreach, intake, or assessment services or a combination thereof.

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) Any voluntary or mandatory registrant for the Work Incentive Demonstration Program provided for pursuant to Section 11347 of the Welfare and Institutions Code.

(iv) Any voluntary or mandatory registrant for the Employment Preparation Program provided for pursuant to Article 3.5 (commencing with Section 11325) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(v) Any individual who has been certified eligible by the California Employment Development Department under the federal Targeted Jobs Tax Credit Program as long as that program is in effect.

(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 subdivision, "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 the 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. 4. 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 either (A) a qualified business, as defined in Section 7082 of the Government Code, or (B) a qualified business, as defined in Section 7082 of the Government Code, except that the percentage requirements with respect to employment of residents of a high-density unemployment area shall be applicable only to those employees hired within the 12 months immediately preceding the date that the business seeks certification from the Department of Commerce and not to the entire workforce of the business. A business that qualifies under clause (B) shall be a qualified business only for the purposes of this section, provided that the Department of Commerce certifies that the business meets the standards set forth in this paragraph.

(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. For the purposes of this section, participation by a prospective employee in a state or federally funded job training or work demonstration program shall not constitute employment, or effect the eligibility of an otherwise qualified employee. Qualified employee includes an otherwise qualified employee who is employed by a qualified business in the 90 days prior to its certification by the Department of Commerce as a qualified business for the purpose of becoming eligible for that certification.

(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 hourly 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. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall be applied in the

computation of taxes for taxable 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.

SEC. 6. The Auditor General shall submit a report to the Legislature on or before June 30, 1988, evaluating the effects of this act, as well as Chapters 44, 45, and 1471 of the Statutes of 1984, Chapters 83 and 1462 of the Statutes of 1985, and Chapter 158 of the Statutes of 1986, on state revenues and job creation. Departments and agencies, including, but not limited to, the Franchise Tax Board, the Employment Development Department, and the Department of Commerce, shall cooperate with the Auditor General to the maximum extent feasible to ensure the timely collection of data.

CHAPTER 1429

An act relating to fiscal affairs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987.]

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

SECTION 1. On the effective date of this act, the undisbursed balances of the appropriations provided in Items 8885-101-001 (ddd) and 8885-101-001 (eee) of the Budget Act of 1986 (Ch. 186, Stats. 1986) shall revert to the unappropriated surplus of the General Fund.

SEC. 2. The sum of one hundred forty-five thousand dollars ($145,000) is hereby appropriated from the Fish and Game Preservation Fund to the Department of Fish and Game to provide for the timely construction and completion of laboratory facilities for analysis of selenium and other environmental contaminants.

SEC. 3. The sum of three hundred eighty thousand dollars ($380,000) is hereby appropriated from the Federal Trust Fund to the State Department of Education, in augmentation of Item 6100-161-890 of Section 2.00 of the Budget Act of 1987 (Ch. 135, Stats. 1987), for allocation to the Timpany Center in Santa Clara County. However, for each two dollars ($2) allocated to the center from this appropriation, one dollar ($1) shall be allocated to the center from local sources. In addition, the center shall certify that the funds allocated from this appropriation are used to provide services only to persons 21 years of age, or less.

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 for the reversion of certain funds to the General Fund consistent with the decision of the California Supreme Court in County of Los Angeles v. State of California, to complete construction by March 1, 1988, of laboratory facilities to conduct the "Selenium in California" study and other ongoing analytical chemistry projects for the protection of the public health and safety, and to make funds available to Timpany Center in Santa Clara County as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 1430

An act to amend Section 65913.3 of the Government Code, relating to development projects.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 65913.3 of the Government Code is amended to read:

65913.3. (a) Every city, county, or city and county shall provide for coordination of review and decisionmaking and the provision of information regarding the status of all applications and permits for residential, commercial, and industrial developments, as required by the city, county, or city and county, by a single administrative entity. The city, county, or city and county may charge fees to defray costs which are directly attributable to the coordination of an application of a developer by a single administrative entity.

For the purposes of this section, "administrative entity" means a person or agency designated by the legislative body of the city, county, or city and county to coordinate the review and decisionmaking and provide information regarding the status of all permits or applications required by the local agency.

A city, county, or city and county may adopt, by resolution or ordinance, procedures for the implementation of this section by the designated administrative entity.

(b) At the request of an applicant, the administrative entity may coordinate the review and decisionmaking process with affected special districts and the administrative entity designated by the legislative body of any other city, county, or city and county within whose jurisdiction application for approval of the development is also being made in order to provide concurrent processing within those jurisdictions.

The Office of Permit Assistance in the Office of Planning and Research shall evaluate the extent to which this subdivision has resulted in an expedited development permit process and shall report its findings and conclusions to the Legislature on or before January 1, 1990.

This subdivision shall have no application or effect on and after January 1, 1991.

CHAPTER 1431

An act to amend Section 470.3 of the Business and Professions Code, and to add Section 68070.1 to the Government Code, relating to courts, and making an appropriation therefor.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 470.3 of the Business and Professions Code is amended to read:

470.3. (a) A fee of not less than one dollar ($1) and not more than three dollars ($3) may be added to the total fees collected and fixed pursuant to Sections 26820.4, 26826, 26827, 68090, 72055, and 72056 of the Government Code for the filing of a first paper in a civil action in superior, municipal, or justice court, other than a small claims action. These fees shall only be utilized for the support of the dispute resolution programs authorized by this chapter.

(b) A county may carry over moneys received from the additional fees authorized pursuant to subdivision (a), which shall be deposited in a special fund created for those purposes, until such time as the county elects to fund a dispute resolution program. Records of those fees shall be available for inspection by the public, upon request.

SEC. 1.5. Section 68070.1 is added to the Government Code, to read:

68070.1. (a) On or before January 1, 1989, counsel shall have the option of appearing by telephone in nonevidentiary law and motion and probate hearings and conferences, and every superior court shall provide for appearances of counsel in those hearings and conferences by telephone.

On or before January 1, 1989, counsel shall have the option of appearing by telephone in nonevidentiary trial setting conferences in superior courts in counties not subject to the Trial Court Delay Reduction Act of 1986 (Article 5 (commencing with Section 68600) of Chapter 2 of Title 8), and the superior court shall provide for such appearances. The superior courts in other counties may provide that option by local rule.

(b) On or before March 1, 1988, the Judicial Council shall establish

a pilot project for teleconferencing in nonevidentiary law and motion and probate hearings and conferences in the superior courts in at least 10 counties selected by the Judicial Council. If a pilot project court is not subject to the Trial Court Delay Reduction Act of 1986, it shall also provide teleconferencing in nonevidentiary trial setting conferences; and all other pilot project courts may provide for teleconferencing in nonevidentiary trial setting conferences by local rule.

(c) Each party, found to have the ability to pay, who elects to use teleconferencing procedures pursuant to this section shall pay to the court a fee which covers all costs associated with the teleconferencing procedures, as determined by the court.

(d) The Judicial Council shall adopt model procedures to guide superior courts in the development of teleconferencing procedures.

SEC. 2. Except as provided in Section 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. 3. The sum of one hundred ten thousand dollars ($110,000) is hereby appropriated from the General Fund, as follows:

(a) To the Judicial Council for the purpose of designing and implementing the pilot project created by this act	$20,000
(b) To the Controller, for allocation and disbursement to pilot project counties pursuant to this act, as a loan, to be repaid on or before January 1, 1993, with interest at the Pooled Money Investment Account interest rate, from fees collected pursuant to this act	$90,000

CHAPTER 1432

An act to add Chapter 6.97 (commencing with Section 25550) to Division 20 of the Health and Safety Code, relating to hazardous materials.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987]

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

SECTION 1. Chapter 6.97 (commencing with Section 25550) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 6.97. HAZARDOUS MATERIALS INFORMATION AND CONSULTING SERVICES

25550. If requested by an organization representing local businesses, a county shall meet with representatives of local businesses to determine whether there is a need for a hazardous materials information and consulting service to assist businesses in that county. If the county determines there is a need for the service, and the county possesses or could reasonably secure the necessary technical expertise, the county may establish a hazardous materials information and consulting service to provide the services specified in Section 25551, subject to the prosecution policies developed pursuant to Section 25552, to all the following persons:

(a) Any person subject to Chapter 6.5 (commencing with Section 25100), including, but not limited to, any person discharging hazardous waste into a surface impoundment pursuant to Article 9.5 (commencing with Section 25208) of Chapter 6.5.

(b) The owner or operator of an underground storage tank subject to Chapter 6.7 (commencing with Section 25280).

(c) Any business required to establish and implement a business plan for emergency response pursuant to Chapter 6.95 (commencing with Section 25500).

25551. A county which establishes a hazardous materials information and consulting service pursuant to this chapter shall do all of the following:

(a) Develop informational materials or adapt existing materials on the regulatory programs specified in Section 25550 and publicize the availability of this information.

(b) Respond to telephone inquiries with verbal or written information.

(c) Conduct onsite consultations on the request of a person specified in Section 25550.

(d) Conduct seminars for business representatives and attend meetings, when invited, to explain the regulatory programs specified in Section 25550 and the service's availability.

25551.2. A county may contract with another county, or enter into a memorandum of agreement with one or more nearby counties, to provide consulting services for businesses within a multicounty region.

25552. (a) A county that establishes a program pursuant to Section 25550 shall, prior to establishing a fee structure pursuant to subdivision (a) of Section 25553, consult with the district attorney for that county to develop policies to be followed by the district attorney in making decisions concerning prosecution of violations discovered pursuant to this chapter. These policies shall include, but are not limited to, consideration of the following:

(1) Whether the violation is a knowing, willful, negligent, or inadvertent violation.

(2) Whether the violator agrees to the schedule of compliance

specified by the county.

(3) Whether the violation was discovered during an onsite consultation carried out pursuant to this chapter.

(b) Schedules for compliance referred to in subdivision (a) shall not be subject to negotiation between the county and the violator.

(c) A county may take enforcement action, or refer for enforcement action, a violation subject to the policies adopted pursuant to subdivision (a) if the violation involves an imminent or substantial endangerment to public health and safety or the environment. If a county refers a violator for enforcement action to the appropriate state or local agency pursuant to this subdivision, the county shall include any recommendations for cleanup or abatement of the violation and information on whether the violator has voluntarily attempted to comply with the statute or regulation.

25553. (a) (1) Each county may, upon a majority vote of the governing body, adopt a schedule of fees to be collected from businesses which request the services provided by this chapter. The fee schedule shall be developed by the county in consultation with local business representatives. The fee shall be set in an amount sufficient to pay only those costs incurred by the county in carrying out this chapter. In determining the fee schedule, the administering agency shall consider the volume and degree of hazard potential of the hazardous materials handled by the business.

(2) A county may seek supplemental funds for the support of activities carried out pursuant to this chapter from existing state funds which are available to local governmental entities for the costs of waste control and enforcement programs, to the extent that use of the funds will alleviate the disposal of hazardous wastes in solid waste landfills.

(b) A county which has established a hazardous materials information and consulting service pursuant to this chapter shall provide these services to an individual business which has not been assessed a fee as determined by the schedule adopted pursuant to subdivision (a). A business provided services pursuant to this subdivision shall pay a fee to the county for these services at a rate set by the county.

SEC. 2. 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 1433

An act to amend Section 832.3 of, and to add Section 417.3 to, the Penal Code, relating to criminal law.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 417.3 is added to the Penal Code, to read:

417.3. Every person who, except in self-defense, in the presence of any other person who is an occupant of a motor vehicle proceeding on a public street or highway, draws or exhibits any firearm, whether loaded or unloaded, in a threatening manner against another person in such a way as to cause a reasonable person apprehension or fear of bodily harm is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years or by imprisonment for 16 months or two or three years and a three thousand dollar ($3,000) fine.

Nothing in this section shall preclude or prohibit prosecution under any other statute.

SEC. 2. Section 832.3 of the Penal Code is amended to read:

832.3. (a) Except as provided in subdivision (b), any sheriff, undersheriff, or deputy sheriff of a county, any police officer of a city, and any police officer of a district authorized by statute to maintain a police department, who is first employed after January 1, 1975, shall successfully complete a course of training prescribed by the Commission on Peace Officer Standards and Training before exercising the powers of a peace officer, except while participating as a trainee in a supervised field training program approved by the Commission on Peace Officer Standards and Training. The training course for an undersheriff and deputy sheriff of a county and a police officer of a city shall be the same.

(b) For the purpose of standardizing the training required in subdivision (a), the commission shall develop a training proficiency testing program, including a standardized examination which enables (1) comparisons between presenters of such training and (2) development of a data base for subsequent training programs. Presenters approved by the commission to provide the training required in subdivision (a) shall administer the standardized examination to all graduates. Nothing in this subdivision shall make the completion of such examination a condition of successful completion of the training required in subdivision (a).

(c) Notwithstanding subdivision (c) of Section 84500 of the Education Code and any regulations adopted pursuant thereto, community colleges may give preference in enrollment to employed law enforcement trainees who shall complete training as prescribed by this section. At least 15 percent of each presentation shall consist

of nonlaw enforcement trainees if they are available. Preference should only be given when the trainee could not complete the course within the time required by statute, and only when no other training program is reasonably available. Average daily attendance for such courses shall be reported for state aid.

(d) Prior to July 1, 1987, the commission shall make a report to the Legislature on academy proficiency testing scores. This report shall include an evaluation of the correlation between academy proficiency test scores and performance as a peace officer.

SEC. 3. Notwithstanding paragraph (5) of subdivision (d) of Section 246.1 of the Penal Code, as proposed to be added by Assembly Bill 766 of the 1987–88 Regular Session of the Legislature, any net proceeds from the sale of vehicles pursuant to Section 246.1 shall be deposited in the General Fund and shall be available for appropriation by the Legislature in the Budget Act for law enforcement programs relating to the discharge of firearms on streets, highways, and freeways.

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 1434

An act to amend Section 4903 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 4903 of the Labor Code is amended to read:

4903. The appeals board may determine, and allow as liens against any sum to be paid as compensation, any amount determined as hereinafter set forth in subdivisions (a) through (i). If more than one such lien be allowed, the appeals board may determine the priorities, if any, between the liens allowed. The liens which may be allowed hereunder are as follows:

(a) A reasonable attorney's fee for legal services pertaining to any claim for compensation either before the appeals board or before any of the appellate courts, and the reasonable disbursements in connection therewith.

(b) The reasonable expense incurred by or on behalf of the injured employee, as provided by Article 2 (commencing with Section 4600) and, to the extent the employee is entitled to

reimbursement under Section 4621, medical-legal expenses as provided by Article 2.5 (commencing with Section 4620) of Chapter 2 of Part 2.

(c) The reasonable value of the living expenses of an injured employee or of his or her dependents, subsequent to the injury.

(d) The reasonable burial expenses of the deceased employee, not to exceed the amount provided for by Section 4701.

(e) The reasonable living expenses of the spouse or minor children of the injured employee, or both, subsequent to the date of the injury, where the employee has deserted or is neglecting his or her family. These expenses shall be allowed in such proportion as the appeals board deems proper, under application of the spouse, guardian of the minor children, or the assignee, pursuant to subdivision (a) of Section 11477 of the Welfare and Institutions Code, of the spouse, a former spouse, or minor children.

(f) The amount of unemployment compensation disability benefits which have been paid under or pursuant to the Unemployment Insurance Code in those cases where, pending a determination under this division there was uncertainty whether such benefits were payable under the Unemployment Insurance Code or payable hereunder; provided, however, that any lien under this subdivision shall be allowed and paid as provided in Section 4904.

(g) The amount of unemployment compensation benefits and extended duration benefits paid to the injured employee for the same day or days for which he or she receives, or is entitled to receive, temporary total disability indemnity payments under this division; provided, however, that any lien under this subdivision shall be allowed and paid as provided in Section 4904.

(h) The amount of indemnification granted pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code.

(i) The amount of compensation, including expenses of medical treatment, and recoverable costs which have been paid by the Asbestos Workers' Account pursuant to the provisions of Chapter 11 (commencing with Section 4401) of Part 1.

SEC. 2. The Legislature finds and declares that the purpose of this act is to correct an oversight made by Assembly Bill 2196 of the 1983–84 Regular Session (Chapter 596, Statutes of 1984). In enacting that legislation, there was no intent to preclude the recognition, and allowance of liens for the reasonable expense incurred by, or on behalf of, injured employees for the purpose of proving or disproving contested claims. Thus, it is the intent of the Legislature that the amendment to Section 4903 of the Labor Code made by Section 1 of this act shall be given retroactive application to July 19, 1984, the effective date of Chapter 596 of the Statutes of 1984, and shall affect all applicable pending proceedings.

CHAPTER 1435

An act to amend Section 3057 of, and to repeal Section 2046.7 of, the Penal Code, relating to prisoners, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 2046.7 of the Penal Code is repealed.

SEC. 1.2. Section 3057 of the Penal Code is amended to read:

3057. (a) Confinement pursuant to a revocation of parole in the absence of a new conviction and commitment to prison under other provisions of law, shall not exceed 12 months, except as provided in subdivision (c).

(b) Upon completion of confinement pursuant to parole revocation without a new commitment to prison, the inmate shall be released on parole for a period which shall not extend beyond that portion of the maximum statutory period of parole specified by Section 3000 which was unexpired at the time of each revocation.

(c) Notwithstanding the limitations in subdivision (a) and in Section 3060.5 upon confinement pursuant to a parole revocation, the board may extend the confinement pursuant to parole revocation for a maximum of an additional 12 months for subsequent acts of misconduct committed by the parolee while confined pursuant to that parole revocation. Upon a finding of good cause to believe that a parolee has committed a subsequent act of misconduct and utilizing procedures governing parole revocation proceedings, the board may extend the period of confinement pursuant to parole revocation as follows: (1) not more than 180 days for an act punishable as a felony whether or not prosecution is undertaken, (2) not more than 90 days for an act punishable as a misdemeanor, whether or not prosecution is undertaken, and (3) not more than 30 days for an act defined as a serious disciplinary offense pursuant to subdivision (a) of Section 2932.

(d) (1) Except for parolees specified in paragraph (2), any revocation period imposed under subdivision (a) may be reduced in the same manner and to the same extent as a term of imprisonment may be reduced by worktime credits under Section 2933. Worktime credit must be earned and may be forfeited pursuant to the provisions of Section 2932.

Worktime credit forfeited shall not be restored. Detention in a county jail facility or community correctional facility shall result in the application of time credits equal to those provided in Section 2931.

(2) The following parolees shall not be eligible for credit under

this subdivision:

(A) Parolees who are sentenced under Section 1168 with a maximum term of life imprisonment.

(B) Parolees who violated a condition of parole relating to association with specified persons, entering prohibited areas, attendance at parole outpatient clinic, or psychiatric attention.

(C) Parolees who were revoked for conduct described in, or that could be prosecuted under any of the following sections, whether or not prosecution is undertaken: Section 189, subdivision (a) of Section 192, Section 203, 211, 217.1, or 220, subdivision (b) of Section 241, Section 244, paragraph (1) or (2) of subdivision (a) of Section 245, subdivision (2) of Section 261, subdivision (c) or (d) of Section 286, Section 288, subdivision (c) or (d) of Section 288a, Section 289, 12020, 12021, 12022, 12022.5, 12022.7, 12022.8, 12025, or 12560, or Section 664 for any attempt to engage in conduct described in or that could be prosecuted under any of the above-mentioned sections.

(D) Parolees who were revoked for any reason if they had been granted parole after conviction of any of the offenses specified in subparagraph (C).

(E) Parolees who the Board of Prison Terms finds at a revocation hearing to be unsuitable for reduction of the period of confinement because of the circumstances and gravity of the parole violation, or because of prior criminal history.

SEC. 1.5. Section 1 shall apply to every parolee regardless of whether his or her parole is revoked before or after the effective date of the act. However, no parolee is eligible for worktime credits prior to the effective date of the act.

SEC. 2. It is the intent of the Legislature that persons returned to prison for parole violations serve the entire revocation period as established by the Board of Prison Terms, except for a reduction in time served in the custody of the Director of Corrections pursuant to worktime credit reductions as specified and authorized in this act.

The Legislature further finds and declares that the state has a compelling interest in protecting the public and a parole revocation period shall not be reduced for parolees who are ineligible under the specific provisions of this act or when the Board of Prison Terms determines based on cause that it is in the interest of public safety for a prisoner to serve the entire revocation period.

SEC. 3. The sum of one hundred eighty thousand dollars ($180,000) is hereby appropriated from the 1986 Prison Construction Fund to the Department of Corrections for the purchase and installation of a fence disturbance sensor system on the perimeter fence of the California Institution for Men.

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:

Presently, the state prisons are operating at over 150 percent of capacity and the prison population is still increasing. It is essential to

the public safety that immediate action be taken to relieve prison overcrowding and to maintain public safety and security.

CHAPTER 1436

An act to amend Sections 12726, 12727, 12728, 12730, 12735, 12736, 12738, 12740, 12741, 12742, 12745, 12750, 12751, 12752.1, 12753, 12759, 12767, 12768, 12775, 12776, 12780, 12781, 12785, and 12790 of, to add Sections 12747, 12750.1, 12750.2, 12786, and 12787 to, to repeal Sections 12737, 12758, 12762, 12777, 12778, 12782, and 12783 of, and to repeal and add Article 8 (commencing with Section 12770) of Chapter 9 of Part 2 of Division 3 of Title 2 of, the Government Code, relating to the California Community Services Block Grant Program.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 12726 of the Government Code is amended to read:

12726. (a) The purpose of this chapter is to provide authorization for the Governor of the State of California to assume responsibility for the Community Services Block Grant (Subtitle B, Title VI, Public Law 97-35, as amended), and to further provide for the state to implement this block grant in conformity with the principles, purposes, and policies of the California Community Services Block Grant Program set forth herein.

(b) The Legislature intends that the California Community Services Block Grant Program shall be governed by the principle of community self-help, thereby promoting new economic opportunities for Californians living in poverty through well planned, broadly based and locally controlled programs of community action.

SEC. 1.1. Section 12727 of the Government Code is amended to read:

12727. All activities of the California Community Services Block Grant Program state and local grantees shall have the following basic and specific purposes:

(a) The basic purpose of this chapter is to stimulate an effective concentration of all available local, state, private, and federal resources upon the goal of enabling low-income families, and low-income individuals of all ages, in rural and urban areas to attain the skills, knowledge, and motivations and to secure the opportunities needed for them to become fully self-sufficient.

(b) The specific purposes of this chapter are to promote, as methods of achieving an effective concentration of resources on the goal of individual and family self-sufficiency, the following:

(1) The strengthening of community capabilities for planning and coordinating federal, state, private, and other assistance related to the elimination of poverty, so that this assistance, through the efforts of local officials, organizations, and interested and affected citizens, can be made more responsive to local needs and conditions.

(2) The coherent organization of a range of services related to the needs of the poor, so that these services may be made more effective and efficient in helping families and individuals to overcome poverty-related problems in a way that takes into account, and supports, their progress in overcoming identified causes of poverty.

(3) The implementation, subject to adequate evaluation, of new types of services and innovative approaches toward eliminating causes of poverty, so as to develop increasingly effective methods of employing available resources.

(4) Maximum feasible participation of members of the groups and residents of the low-income areas to be served by programs and projects in the development and implementation of those programs and projects, in order to assure that all programs and projects are meaningful to, and widely utilized by, their intended beneficiaries.

(5) The broadening of the resource base directed towards the elimination of poverty, so as to secure, in addition to the services and assistance of public officials, private religious, charitable, and neighborhood organizations, and individual citizens, a more active role for business, labor, and professional groups able to provide employment opportunities or otherwise influence the quantity and quality of services of concern to the poor.

(c) It is the finding of the Legislature that these state purposes and the intent of the federal Community Services Block Grant will best be served by enacting the program policies and requirements contained in this chapter.

SEC. 1.2. Section 12728 of the Government Code is amended to read:

12728. Notwithstanding any other provision of law, the provisions of this chapter shall supersede and prevail over any provisions of law relating to or in any way dealing with the subject matter of this chapter or federal economic opportunity programs which were repealed by federal Public Law 97-35, as amended.

SEC. 1.3. Section 12730 of the Government Code is amended to read:

12730. For the purposes of this chapter:

(a) "Director" means the Director of the Department of Economic Opportunity.

(b) "Delegate agency" means a private nonprofit organization or public agency which operates one or more projects funded under this chapter pursuant to a contractual agreement with an eligible grantee.

(c) "Department" means the Department of Economic Opportunity as constituted pursuant to Article 8 (commencing with Section 12085) of Chapter 1.

(d) "Designation" means the formal selection of a proposed community action agency by a political subdivision or the director, as provided in Section 12750.1.

(e) "Eligible entity" means an agency or organization as defined in Public Law 97-35, as amended.

(f) "Eligible beneficiaries" means all of the following:

(1) All individuals living in households whose income is at or below the official poverty line as defined by the United States Office of Management and Budget.

(2) All individuals eligible to receive aid to families with dependent children (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code) or federal supplemental security income benefits (Title XVI, Social Security Act).

(3) Residents of a target area or members of a target group having a measurably high incidence of poverty and which is the specific focus of a project financed under this chapter.

(g) "Financial assistance" means money provided to a grantee or contractor, pursuant to an approved contract agreement, in order to enable the grantee or contractor to accomplish its planned and approved work program.

(h) "Political subdivision" shall generally be deemed to mean county government, with the following exceptions:

(1) In any county which prior to October 1, 1981, had more than one designated community action agency, each unit of local government which contained a designated community action agency shall continue to operate as a "political subdivision" under this chapter.

(2) Any county having fewer than 50,000 population according to the 1980 census may be deemed by the department to be part of a larger "political subdivision" comprising two or more counties if the department determines that to do so would but serve the purposes of this chapter, and may participate in the designation process for a multicounty community action agency.

(i) "Recognition" means approval by the department of a community action agency to serve a particular community, such recognition to follow designation of that agency by one or more political subdivisions.

(j) "Secretary" means the Secretary of the United States Department of Health and Human Services.

(k) "Special consideration," pursuant to the requirements of Section 675 (c) (4) of Public Law 97-35, as amended, means all of the following:

(1) That no new or repeated designation shall be required of any political subdivision which had a designated community action agency on August 13, 1981.

(2) That no community action agency shall be determined to be out of compliance with program or fiscal requirements established by the state until such requirements are published for review and

comment and until, in the case of requirements differing from those of the now defunct federal Community Services Administration, community action agencies are afforded a reasonable opportunity to comply therewith.

(*l*) "Standards of effectiveness" are the general standards, derived from the purposes of this chapter, toward which all programs and projects funded under this chapter shall be directed and against which they will be assessed.

(m) "Statement of grant action" means the written document incorporating the terms and conditions under which the department agrees to provide financial assistance to a grantee. Upon its cosigning by authorized agents of the department and the grantee, and subsequent approval by the Department of General Services pursuant to Section 14780, a statement of grant action shall be deemed to constitute a valid, enforceable contract.

(n) "State plan" means the plan required to be submitted annually to the secretary to secure California's allotment of Community Services Block Grant funds, which shall be prepared and reviewed pursuant to the requirements of this chapter.

(o) "Uncapped area" means any county or portion thereof for which no community action agency has been designated and recognized.

SEC. 2. Section 12735 of the Government Code is amended to read:

12735. (a) On or before September 15 of each year, the Governor shall submit an application containing the assurances and certification required under Section 12736 to the secretary in such form as the secretary may require pursuant to Section 674 of federal Public Law 97-35, as amended.

(b) Since under the terms of federal Public Law 97-35, as amended, the secretary may not prescribe the manner in which states shall comply with the provisions set forth in subdivision (a), it is the intent of the Legislature that California's manner of compliance shall be controlled in the first instance by this chapter, and further by the annual state plan and such regulations as may be promulgated by the department, pursuant to the Administrative Procedure Act.

(c) The state administering agency for the California Community Services Block Grant Program shall be the Department of Economic Opportunity.

SEC. 3. Section 12736 of the Government Code is amended to read:

12736. For the purposes of Section 12735, the application shall contain assurance and certification that the state shall comply with all of the items listed below. The application shall include information as to how each assurance will be carried out.

(a) Conduct legislative hearings on the proposed use and distribution of Community Services Block Grant funds prior to the submission of each application.

(b) Use Community Services Block Grant funds as provided in Section 12745.

(c) Use not less than 90 percent of the Community Services Block Grant funds allotted to the state to make grants to agencies which meet the provisions of Public Law 97-35, as amended.

(d) Expend not more than 5 percent of the state's allotment for administrative costs at the state level.

(e) Assure that any community action agency or migrant and seasonal farmworker organization which received funding in the previous fiscal year under this chapter shall not have its present or future funding terminated pursuant to this chapter unless, after notice and opportunity for hearing on the record, the department determines that cause existed for such termination, subject to review by the secretary as provided in Section 676A of Public Law 97-35, as amended.

(f) Give special consideration in the designation of local community action agencies to any community action agency which was receiving funds under any federal antipoverty program on the date of the enactment of federal Public Law 97-35, except that the state shall, before giving such special consideration, determine that the agency involved meets program and fiscal requirements established by the state. If there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, the state shall give special consideration in the designation of community action agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds in the fiscal year preceding the fiscal year for which the determination is made.

(g) Decline to avail itself of permission to transfer Community Services Block Grant funds, not to exceed 5 percent of the state's allotment, to other specified programs.

(h) Prohibit any political activities in accordance with Section 675(e) of federal Public Law 97-35, as amended.

(i) Prohibit any activities to provide voters and prospective voters with transportation to the polls or provide similar assistance in connection with an election or any voter registration activity.

(j) Provide for coordination between antipoverty programs in each community, where appropriate, with emergency energy crisis intervention programs under Title XXVI of federal Public Law 97-35, as amended, (relating to low-income home energy assistance) conducted in such community.

(k) Provide that fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursal of and accounting for federal funds paid to the state under this chapter, including procedures for monitoring the assistance provided under this chapter, and provide that at least every year the state shall prepare, in accordance with Public Law 98-502 (Single Audit Act of 1984), an audit of expenditures under this chapter of amounts received under the Community Services Block Grant and

amounts transferred to carry out the purposes of the Community Services Block Grant.

(*l*) Permit and cooperate with federal investigations undertaken in accordance with Public Law 97-35, as amended.

SEC. 4. Section 12737 of the Government Code is repealed.

SEC. 5. Section 12738 of the Government Code is amended to read:

12738. The Department of Economic Opportunity may make grants and enter into contracts as necessary and appropriate to carry out its responsibilities under this chapter.

SEC. 6. Section 12740 of the Government Code is amended to read:

12740. Each year, the department shall prepare an annual state plan for the California Community Services Block Grant Program which shall include all of the following:

(a) A statement of goals and objectives.

(b) Information on the types of activities to be supported, geographic areas to be served, and categories or characteristics of individuals to be served.

(c) The criteria and method established for the distribution of funds, including details on how the distribution of funds will be targeted on the basis of need.

(d) A description of how the state plan for the previous program year has met the goals, objectives and needs identified in the prior year's annual state plan through the use of funds in that program year.

(e) A description of the process by which the annual state plan has been developed, distributed and reviewed by both the general public, groups and individuals with an interest in the state's Community Services Block Grant Program, and the Legislature.

(f) An explanation of how critical comment was received, reviewed and either incorporated or rejected by the department prior to final submission of the annual state plan.

(g) The department's most current information regarding the projected federal Community Services Block Grant allocation to the state.

(h) A report of current and planned expenditures of discretionary funds.

SEC. 7. Section 12741 of the Government Code is amended to read:

12741. The state's planning process shall include the following:

(a) The annual state plan shall identify eligible activities and the eligible entities which will conduct those activities in order to meet the general goals of the California Community Services Block Grant Program and the specific goals of the program. The plan shall, particularly with respect to subdivision (d) of Section 12740, reflect the aggregate of local plans in order to fairly represent the most essential characteristic of the California Community Services Block Grant Program, which is its adherence to the principle of community

self-help.

(b) The appropriate policy committees of the Assembly and Senate shall conduct public hearings on the proposed use and distribution of funds provided under the California Community Services Block Grant Program. Prior to the hearing, the department shall forward to the policy committees a list of the activities it has identified as statewide priorities pursuant to subdivision (e) of Section 12745, in order to notify the Legislature and the public of the issues to be addressed by the department at the hearing. The chairs of the policy committees may request additional issues to be reported on by the department. The hearings shall be conducted in such a manner as to satisfy the legislative hearing requirement of federal Public Law 97-35, as amended, and to give the Legislature an opportunity to certify that the state plan conforms with the requirements of this chapter. At the discretion of the respective chairs, the policy committees may hold a joint hearing to satisfy the requirements of this section.

(c) The department shall make adjustments to the annual state plan as a result of public comments presented at the legislative hearing as well as written comments which are submitted to the department. The department shall identify all testimony presented by the poor, and shall state whether the concerns expressed therein have been included in the plan. If any of those concerns have not been included in the plan the department shall specify in the plan the reasons for the rejection of those concerns. Concerns shall only be rejected if there is good cause for the rejection.

(d) The committees conducting the hearings pursuant to subdivision (b) shall determine whether the concerns of the poor have been included in the state plan, as adjusted, or rejected for good cause. Before the final state plan is submitted to the secretary, the chairs of the committees conducting hearings shall certify that the state plan conforms with the requirements of this chapter.

(e) Upon receiving the certification required in subdivision (d), the department shall submit the final state plan by September 15 of each year to the secretary, and shall provide a copy to all grantees and state legislators no more than one week thereafter.

SEC. 8. Section 12742 of the Government Code is amended to read:

12742. The annual state plan may be amended by the department at any time during the program year, provided that any proposed amendments, together with the reasons therefor, are distributed to all grantees and state legislators for a 30-day comment period commencing at least 45 days prior to their planned date of submission to the secretary.

SEC. 9. Section 12745 of the Government Code is amended to read:

12745. (a) Eligible activities for which financial assistance may be obtained pursuant to this chapter shall be designed to have a measurable and potentially major impact on causes of poverty in the

community or those areas of the community where poverty is a particularly acute problem. These activities shall be designed to assist low-income participants to do all the following:

(1) Secure and retain meaningful employment.

(2) Attain an adequate education.

(3) Make better use of available income.

(4) Obtain and maintain adequate housing and suitable living environment.

(5) Obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing and employment-related assistance.

(6) Remove obstacles and solve problems which block the achievement of self-sufficiency.

(7) Achieve greater participation in the affairs of the community.

(8) Make more effective use of other programs related to the purposes of this chapter.

(b) Additionally, activities shall be designed to do all of the following:

(1) Provide on an emergency basis for the provision of the supplies and services, nutritious foodstuffs, and related services, as may be necessary to counteract conditions of starvation and malnutrition among the poor.

(2) Coordinate and establish linkages between governmental and other social services programs to assure the effective delivery of such services to low-income individuals.

(3) Encourage the use of entities in the private sector of the community in efforts to ameliorate poverty in the community.

(c) Each eligible entity shall, through the local planning process, select and propose for funding the programs or projects which, in its judgment, will produce the maximum impact on its community.

(d) Entities eligible for funding under Article 9 (commencing with Section 12775) are limited purpose agencies which need not respond to the broad range of eligible activities but may provide specialized training, technical assistance and support services to enhance the effectiveness of community action programs, migrant and seasonal farmworker programs, and American Indian programs.

(e) The department may prescribe statewide priorities among eligible activities or strategies which shall be considered and addressed in the local planning process and described in the local plan submitted to the state. Each local grantee shall be authorized to set its own program priorities in conformance to its own determination of local needs.

(f) If no other entity in the community provides those services, grantees under Article 6 (commencing with Section 12750), Article 7 (commencing with Section 12765), or Article 8 (commencing with Section 12770) shall provide a minimum level of services to help the poor receive the benefits for which they are eligible under health, food, income, and housing assistance programs designed to meet the

basic survival needs of the poor. These services shall include, but shall not be limited to, all of the following:

(1) A service to help the poor complete the various required application forms, and, when necessary and possible, to help them gather verification of the contents of completed applications.

(2) A service to explain program requirements and client responsibilities in programs serving the poor.

(3) A service to provide transportation, when necessary and possible.

(4) A service which does all things necessary to make the programs accessible to the poor, so that they may become self-sufficient.

(g) Standards of effectiveness to be addressed in setting goals and assessing accomplishments are:

(1) Strengthened community capabilities for planning and coordinating so as to insure that available assistance related to the elimination of poverty can be more responsive to local needs and conditions.

(2) Better organization of services related to the needs of the poor.

(3) Maximum feasible participation of the poor in the development and implementation of all programs and projects designed to serve the poor.

(4) Broadened resource base of programs directed to the elimination of poverty so as to include all elements of the community able to influence the quality and quantity of services to the poor.

(5) Greater use of new types of services and innovative approaches in attacking causes of poverty, so as to develop increasingly effective methods of employing available resources.

(6) Maximum employment opportunity, including opportunity for further occupational training and career development for residents of the area and members of the groups served.

SEC. 10. Section 12747 is added to the Government Code, to read:

12747. (a) Local plans shall be developed each year by eligible entities using processes which assess poverty-related needs, available resources, and feasible goals and strategies, and which yield program priorities consistent with standards of effectiveness established for this program. Local plans shall identify eligible activities to be funded in the program service areas and the needs which each activity is designed to meet. Local plans shall provide for the contingency of reduced federal funding.

(b) All eligible entities shall submit their grant applications, including local plan and report of the public hearing, if required, to the department no later than June 30 of each year.

(c) Each eligible entity not serving a statewide area shall conduct a local public hearing for the purpose of reviewing the local plans of all eligible entities located or operating within a political subdivision served or proposed to be served pursuant to this chapter.

(d) Agencies holding hearings pursuant to this article shall

identify all testimony presented by the poor, and shall determine whether the concerns expressed by that testimony have been addressed in the plan. If the agency determines that any of these concerns have not been included in the plan, it shall specify in its response to the plan information about those concerns and comment as to their validity.

SEC. 10.1. Section 12750 of the Government Code is amended to read:

12750. (a) A community action agency shall be a public or private nonprofit agency which fulfills all of the following requirements:

(1) Has been designated by a political subdivision or combination of political subdivisions to operate a community action program.

(2) Has a tripartite board structure meeting the requirements of Section 12751.

(3) Has the power, authority, and capability to plan, conduct, administer, and evaluate a community action program, including the power to enter into contracts with other public and private nonprofit agencies and organizations to assist in fulfilling the purposes of this chapter.

(4) Is recognized by the department as a community action agency.

(b) A community action program is a locally planned and operated program comprising a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or those areas of the community where poverty is a particularly acute problem.

(c) Component services and activities of a community action program may be administered directly by the community action agency, or by other agencies pursuant to delegation agreements. They may be projects eligible for assistance under this chapter, or projects assisted from other public or private sources, and they may be either specially designed to meet local needs, or designed pursuant to the eligibility standards of the state or federal program providing assistance to a particular kind of activity which will help in meeting those needs.

(d) For the purpose of this chapter, a community may be a city, county, multicity or multicounty unit, which provides a suitable organizational base and possesses the commonality of interest needed for a community action program.

SEC. 11. Section 12750.1 is added to the Government Code, to read:

12750.1. (a) No new community action agency may be designated by a political subdivision which is served by an existing community action agency unless any of the following exist:

(1) The political subdivision is informed in writing by the director that the designated community action agency has failed to comply, after having a reasonable opportunity to do so, with the requirements of this chapter.

(2) The political subdivision is informed by its designated community action agency that because of changes in assistance furnished to programs to economically disadvantaged persons it can no longer operate a satisfactory community action program.

(3) The political subdivision is petitioned by significant numbers of eligible beneficiaries to reconsider its existing designation and, based on that reconsideration, determines to designate an alternate community action agency.

(b) In the event that the designation of an existing community action agency is revoked, the political subdivision shall have a period of 90 days after the effective date of the revocation to designate a new community action agency. If the political subdivision fails to designate a new community action agency within that period, the director may designate a new community action agency.

(c) New community action agency designations may be made by political subdivisions or combinations of political subdivisions in uncapped areas provided that the community to be served has a population of at least 50,000 as determined by the Bureau of Census from the most recent available census or survey. The director may waive the general requirement that the community to be served have a population of at least 50,000 in those instances where no practical grouping of contiguous political subdivisions can be made in order to meet that requirement.

(d) A private nonprofit agency which serves an uncapped political subdivision or combination of political subdivisions having more than 50,000 population where the political subdivision or subdivisions have refused to designate a community action agency, shall be entitled to petition the office for state designation as a community action agency, provided it has a governing board meeting community action agency requirements and has the capability to plan, conduct, administer, and evaluate a community action program.

(e) The process for designation and recognition of a new or alternate community action agency shall include all of the following:

(1) Notice of intent to designate.

(2) Public hearings.

(3) Legislative passage of an act, ordinance, or resolution of designation by the governing officials of the political subdivision or subdivisions.

(4) Submission to the department of an application for recognition.

(5) Review of application.

(6) Granting of recognition.

SEC. 11.5. Section 12750.2 is added to the Government Code, to read:

12750.2. For purposes of serving any area of the state in which community action programs cease to be provided, the director shall designate an organization in accordance with Section 673(1) of Public Law 97-35, as amended.

SEC. 12. Section 12751 of the Government Code is amended to read:

12751. Each community action agency shall have a board of directors conforming to the following requirements:

(a) One-third of the members of the board are elected public officials, currently holding office, or their representatives, except that if the number of elected officials reasonably available and willing to serve is less than one-third of the membership of the board, membership on the board of appointive public officials may be counted in meeting this requirement.

(b) At least one-third of the members are persons chosen in accordance with democratic selection procedures outlined in regulations promulgated by the department to assure that the members represent the poor in the area served.

(c) The remainder of the members are officials or members of business, industry, labor, religious, welfare, education, or other major groups and interests in the community.

SEC. 13. Section 12752.1 of the Government Code is amended to read:

12752.1. (a) If a political subdivision or local government establishes itself as a community action agency, it shall do all of the following:

(1) Establish a tripartite board to provide input to the political subdivision or local government regarding the activities of the community action agency.

(2) Share with its tripartite board the determination of the community action agency's program plans and priorities.

(3) Provide for the participation of the administering board in the selection of the executive director of the community action agency, unless prohibited by local law, city charter, or civil service procedure.

(b) The political subdivision or local government may, consistent with general and local law, delegate any or all of the following powers to the administering board:

(1) To determine its own rules and procedures and to select its own officers and executive committee.

(2) To determine, subject to the ratification of designating officials, the community action agency's major personnel, organizational, fiscal, and program policies.

(3) To approve, subject to the ratification of designating officials, all program proposals, budgets and delegate agency agreements.

(4) To oversee the extent and the quality of the participation of the poor in the programs of the community action agency.

SEC. 14. Section 12753 of the Government Code is amended to read:

12753. (a) The board of directors of each community action agency shall adopt procedures to provide a continuing and effective mechanism for securing broad community involvement in programs assisted under this act and that all groups or elements represented

on those boards have a full and fair opportunity to participate in decisions affecting those programs.

(b) Community action agencies shall establish procedures under which community agencies and representative groups of the poor which feel themselves inadequately represented on the community administering board or governing board may petition for adequate representation.

SEC. 15. Section 12758 of the Government Code is repealed.

SEC. 16. Section 12759 of the Government Code is amended to read:

12759. (a) The director shall reserve an amount of funds which bears the same relationship to the total funds available for community action programs as the number of persons living in households at or below the poverty level in uncapped areas of the state bears to the total number of those persons living in the state, as reported in the most recent available census.

(b) Each community action agency which qualified or could have qualified for the minimum funding guideline under former Community Services Administration policies shall receive one hundred sixty thousand dollars ($160,000) as a minimum level of funding to ensure that it will be capable of operating a community action program.

(c) The director shall assure that financial assistance to community action programs is distributed on an equitable basis. In each program year, the director shall proportionately adjust the funding guidelines so as to achieve equity in funding allocations. Equity shall be determined on the basis of a comparison of the number of persons living in households which have an income at or below the poverty level in each political subdivision served by a community action agency, relative to the total number of low-income persons residing in capped areas of the state, as reported in the most recent available census.

(d) If the total level of federal Community Services Block Grant funds is reduced more than 3.5 percent below the amount appropriated in the annual Budget Act, subdivision (c) shall not be operative, and all agencies shall be reduced by an equal percentage, which shall be that percentage in excess of 3.5 percent.

SEC. 16.5. Section 12762 of the Government Code is repealed.

SEC. 17. Section 12767 of the Government Code is amended to read:

12767. Programs assisted under this article may include projects or activities to do any of the following:

(a) Meet the immediate needs of migrant and seasonal farmworkers and their families, such as day care for children and elderly persons, education, health services, improved housing and sanitation, including the provision and maintenance of emergency and temporary housing and sanitation facilities, legal advice and representation, and consumer training and counseling, and assistance in processing applications for legalization and citizenship.

(b) Promote increased community acceptance of migrant and seasonal farmworkers and their families.

(c) Equip unskilled migrant and seasonal farmworkers and members of their families, as appropriate, through education, training, and developmental programs to meet the changing demands in agricultural employment brought about by technological advancement and economic exigencies, and to take advantage of opportunities available to improve their well-being and self-sufficiency by gaining regular or permanent employment or by participating in available federally assisted employment or training programs.

(d) Provide such other services as are permissible under Section 12745 with specific focus on the needs of migrant and seasonal farmworkers and their families.

SEC. 18. Section 12768 of the Government Code is amended to read:

12768. Migrant and seasonal farmworker program grantees shall coordinate their plans and activities with other grantees funded by the department to avoid duplication of services and to maximize services for all eligible beneficiaries.

SEC. 19. Article 8 (commencing with Section 12770) of Chapter 9 of Part 2 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 20. Article 8 (commencing with Section 12770) is added to Chapter 9 of Part 2 of Division 3 of Title 2 of the Government Code, to read:

Article 8. American Indian Programs

12770. (a) The purpose of this article is to set aside funds for assisting American Indians and Alaskan Natives residing in off-reservation and reservation areas of this state to achieve a greater degree of self-sufficiency through the principles of community self-help.

(b) Allocation of funds under this article shall be consistent with the sovereign legal status of federally recognized tribes as dependent nations within the United States, consistent with the specific rights accorded other tribes and tribal organizations by the federal government and consistent with the fiduciary responsibilities of the United States government for Indian people.

Tribes shall be entitled to receive a share of the total funds made available pursuant to this article which is commensurate with the number of low-income American Indians and Alaskan Natives residing in their reservation areas.

(c) Off-reservation American Indian programs shall be entitled to receive a share of the total funds made available pursuant to this article which is commensurate with the number of low-income American Indians and Alaskan Natives residing in the off-reservation areas and shall be consistent with and cognizant of the needs of

off-reservation American Indians and Alaskan Natives residing in this state.

12771. These set-aside funds shall be used to implement programs consistent with the purposes of this chapter and as are permissible under Section 12745 with specific focus on the special needs of American Indians and Alaskan Natives and their families.

12772. American Indian grantees shall be limited to tribes and other Indian organizations in urban or rural off-reservation areas who demonstrate community governance, such as Indian nonprofit organizations, who meet the criteria of eligible entity as defined in subdivision (e) of Section 12730. American Indian programs funded under this article shall coordinate their plans and activities with other grantees funded by the department to avoid duplication of services and to maximize services for eligible beneficiaries.

12773. American Indian grantees funded by the department and operating under authority of this chapter in the prior program year shall have the same protections against defunding as defined in subdivision (e) of Section 12736.

SEC. 21. Section 12775 of the Government Code is amended to read:

12775. (a) "Limited purpose agency" means a private nonprofit organization or public agency which in federal fiscal year 1981 received direct funding under Section 221 or 222 of the federal Economic Opportunity Act of 1964 from Region IX of the Community Services Administration, and has operated continuously as a limited purpose agency since 1981.

(b) Limited purpose agencies shall provide such services as are permissible under Section 12745, with specific focus on training, technical assistance, special support programs, or other activities serving eligible beneficiaries.

(c) Limited purpose agencies which are grantees under this article shall comply with appropriate administrative and fiscal requirements of this chapter as a condition of remaining an entity eligible for funding.

(d) Limited purpose agencies funded by the department and operating under authority of this chapter in the prior program year shall have the same protections against defunding as defined in subdivision (e) of Section 12736.

SEC. 22. Section 12776 of the Government Code is amended to read:

12776. Limited purpose agencies funded under this article shall coordinate their plans and activities with other grantees funded by the department to avoid duplication of services and to maximize services for all eligible beneficiaries.

SEC. 23. Section 12777 of the Government Code is repealed.

SEC. 23.5. Section 12778 of the Government Code is repealed.

SEC. 24. Section 12780 of the Government Code is amended to read:

12780. The powers and responsibilities of the department as the

state administering agency for the California Community Services Block Grant Program are to ensure that all applicable federal requirements of Subtitle B of Title VI of Public Law 97-35, as amended, are met and the administrative requirements of this program are clear and uniform, and provide adequate safeguards for the due process rights of grantees and beneficiaries.

SEC. 25. Section 12781 of the Government Code is amended to read:

12781. The department shall have the following duties:

(a) Development of an orderly grant application process culminating in a prescribed statement of grant action.

(b) Responsibility to assure that grantees will have a timely cash flow. In order to meet this responsibility, the department shall issue quarterly advance payments to grantees in an amount equal to 25 percent of the grantee's annual allocation for the contract period. The advance payment shall be received by the grantee no later than the first day of the first month of the quarter for which the payment is advanced.

(c) Promulgation of uniform grants management standards to include:

(1) Standards for fiscal control and fund accounting which do all of the following:

(A) Require new grantees to be certified by an accountant prior to receiving funding.

(B) Require periodic financial reporting to the office and an annual audit.

(C) Permit a defined range of flexibility from approved budgets and the use of negotiated indirect costs rates.

(D) For the purpose of administrative expenditures, permit a grantee to use funds allocated under this chapter in an amount not to exceed 12 percent of its total operating funds.

(E) Limit the use of funds for construction, as required by federal law.

(2) Minimum standards for procurement to prevent conflict of interest or malfeasance.

(3) Standards regarding property which provide that title to property purchased with funds granted under this chapter or with funds formerly granted pursuant to the federal Economic Opportunity Act of 1964 shall vest in the grantee, subject to conditions requiring prudent property management and the provision for disposition of the property among other grantees in the event of closeout.

(4) Standards for termination of financial assistance to a grantee, or revocation of the recognition of a community action agency, for failure to comply with this chapter. The department may suspend or reduce any funding provided to a grantee under this chapter forthwith, if the department finds there is evidence of fraud or illegal use of funds. In the case of substantial noncompliance with the terms and conditions of the statement of grant action or contract, the

department may suspend or reduce funding provided under this chapter after giving the grantee 15 days' written notice.

(5) Standards for withholding recognition of a newly designated community action agency when the director determines that the designated entity does not meet the requirements of this chapter.

(d) Promulgation of regulations pursuant to the Administrative Procedure Act which are necessary and appropriate for the effective administration of this chapter. These regulations shall clearly define all of the following:

(1) The due process rights, including notification, right of appeal, and opportunity for a fair hearing, of grantees, and the procedures to be followed in order to guarantee those rights, in cases of denial of refunding, suspension or termination of funding, or revocation of designation by the department.

(2) The obligation of grantees to provide a fair procedure for clients denied services by grantees.

(3) The requirement that community action agencies select tripartite boards which include persons who represent the poor. These regulations shall ensure that democratic procedures are fully operative and may include criteria for tenure, geographic representation, and election procedures.

(e) Establishment of procedures for orderly closeout of terminated grantees.

(f) Monitoring and periodic evaluation of grantees, using evaluation methods and standards which have been published prior to the evaluation and which provide grantees an opportunity to respond to evaluation findings.

(g) Development of standards to assure grantees' compliance with federal requirements for public access to records, prohibition of partisan political activities, and nondiscrimination.

(h) Establishment of policies and procedures which assure freedom of information.

(i) Fostering cooperation among grantees, including providing opportunities for grantees to work together and publishing a directory, which shall be periodically updated, of all grantees under this program and the Low-Income Home Energy Assistance Program.

(j) Establishment of procedures for the allocation of the funds available pursuant to subdivision (c) of Section 12759.

(k) Identification and encouragement of linkages with other state departments, local governments or private groups that oversee programs providing resources for low-income persons in order to coordinate existing efforts to overcome poverty.

SEC. 26. Section 12782 of the Government Code is repealed.

SEC. 27. Section 12783 of the Government Code is repealed.

SEC. 28. Section 12785 of the Government Code is amended to read:

12785. All Community Services Block Grant funds made available by the Congress shall be used by the state, together with

any state funds as may from time to time be appropriated for this program, and any funds as may be transferred to this program from other federal block grants, in accordance with the annual Budget Act.

No transfer of funds is permitted, under any circumstance, from the California Community Services Block Grant Program to any other block grant or program administered by the state or by the federal government.

In the event that diminished federal appropriations for the Community Services Block Grant result in California's share for any fiscal year being reduced by any amount up to 3.5 percent below the amount appropriated in the annual Budget Act, the director shall use the discretionary fund to proportionately restore Community Services Block Grant grantees and contractors to full funding levels.

In the event that diminished federal appropriations for the Community Services Block Grant result in California's share for any federal fiscal year being reduced by 5 percent or more below the amount appropriated in the annual Budget Act, the director and the Department of Economic Opportunity Advisory Commission shall so inform the Speaker of the Assembly and the President pro Tempore of the Senate by letter within 10 days of the congressional action authorizing the diminished appropriations. At the end of the state fiscal year in which the letters were transmitted, the requirements of this section shall be suspended until the Legislature makes a statutory determination regarding the adjustments in fund allocations to be made in response to the above-described contingency.

SEC. 29. Section 12786 is added to the Government Code, to read:

12786. The state shall set aside up to 5 percent of the total Community Services Block Grant for discretionary use for special projects, training, technical assistance, and special support programs. Entities eligible to receive these discretionary funds shall include, but not be limited to, limited purpose agencies as defined in subdivision (a) of Section 12775, and community-based nonprofit organizations without tripartite boards.

SEC. 30. Section 12787 is added to the Government Code, to read:

12787. Nothing in this chapter shall be construed to prohibit a grantee under Article 6 (commencing with Section 12750), 7 (commencing with Section 12765), or 8 (commencing with Section 12770), from applying for state discretionary funds, provided that no discretionary funding received by such a grantee shall be used to duplicate services funded pursuant to other provisions of this chapter.

SEC. 31. Section 12790 of the Government Code is amended to read:

12790. This chapter shall remain in effect until the Director of Finance finds that federal Community Services Block Grant funding to the state has been terminated without provision for another program to replace Community Services Block Grant funding and

files a report of that finding with each house of the Legislature, and as of the date of that filing is repealed, unless a later enacted statute, which is chaptered before that date, deletes or extends the date.

SEC. 32. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act continues a federal law or regulation and involves only "costs mandated by the federal government," as defined by Section 17513 of the Government Code.

CHAPTER 1437

An act to add Section 1191.3 to the Penal Code, relating to crime.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987.]

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

SECTION 1. This act shall be known and may be cited as the Davis-Areias Truth in Sentencing Act.

SEC. 2. (a) The Legislature hereby finds and declares that it is essential to the fair and impartial administration of justice to inform the victim or victims of a criminal offense that a defendant sentenced to a period of incarceration in a county jail or in the state prison may be eligible, pursuant to current provisions of law, for presentence custody credits and conduct and worktime credits.

(b) The Legislature further finds that victims of crimes and the public are unaware that the term of sentence imposed is rarely the term of sentence actually served by the defendant.

SEC. 3. Section 1191.3 is added to the Penal Code, to read:

1191.3. (a) At the time of sentencing or pronouncement of judgment in which sentencing is imposed, the court shall make an oral statement that statutory law permits the award of conduct and worktime credits up to one-third or one-half of the sentence that is imposed by the court, that the award and calculation of credits is determined by the sheriff in cases involving imprisonment in county jails, and by the Department of Corrections in cases involving imprisonment in the state prison, and that credit for presentence incarceration served by the defendant is calculated by the probation department under current state law.

As used in this section, "victim" means the victim of the offense, the victim's parent or guardian if the victim is a minor, or the victim's next of kin.

(b) This section applies to all felony convictions.

SEC. 4. This act shall not become operative if Assembly Bill 1731 of the 1987–88 Regular Session is also enacted and becomes effective on or before January 1, 1988.

CHAPTER 1438

An act to amend Sections 12300, 12301, and 12302 of, to repeal and add Section 12306 of, and to repeal Section 12306.1 of, the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 12300 of the Welfare and Institutions Code is amended to read:

12300. The purpose of this article is to provide in every county in a manner consistent with this chapter and the annual Budget Act those supportive services identified in this section to aged, blind, or disabled persons, as defined under this chapter, who are unable to perform the services themselves and who cannot safely remain in their homes or abodes of their own choosing unless these services are provided.

Supportive services shall include domestic services and services related to domestic services, heavy cleaning, nonmedical personal services, accompaniment by a provider when needed during necessary travel to health-related appointments or to alternative resource sites and other essential transportation as determined by the director, yard hazard abatement, protective supervision, teaching and demonstration directed at reducing the need for other supportive services, and paramedical services which make it possible for the recipient to establish and maintain an independent living arrangement.

Where these supportive services are provided by a person having the legal duty pursuant to the Civil Code to provide for the care of his or her child who is the recipient, the provider of supportive services shall receive remuneration for the services only when the provider leaves full-time employment or is prevented from obtaining full-time employment because no other suitable provider is available and where the inability of the provider to provide supportive services may result in inappropriate placement or inadequate care.

These providers shall be paid only for the following supportive services: services related to domestic services, nonmedical personal services, accompaniment by a provider when needed during necessary travel to health-related appointments or to alternative resource sites, other essential transportation as determined by the director, and protective supervision only as needed because of the functional limitations of the child and paramedical services.

To encourage maximum voluntary services, so as to reduce governmental costs, respite care shall also be provided. Respite care is temporary or periodic service for eligible recipients to relieve

persons who are providing care without compensation.

SEC. 2. Section 12301 of the Welfare and Institutions Code is amended to read:

12301. (a) The intent of the Legislature in enacting this article is to provide supplemental or additional services to the social and rehabilitative services in Article 6 (commencing with Section 12250) of this chapter. The Legislature further intends that necessary in-home supportive services shall be provided in a uniform manner in every county based on individual need consistent with this chapter, in the absence of alternative in-home supportive services provided by an able and willing individual or local agency at no cost to the recipient, except as required under Section 12304.5. An able spouse who is available to assist the recipient shall be deemed willing to provide at no cost any services under this article except nonmedical personal services and paramedical services. When a spouse leaves full-time employment or is prevented from obtaining full-time employment because no other suitable provider is available and where the inability of the provider to provide supportive services may result in inappropriate placement or inadequate care, the spouse shall also be paid for accompaniment when needed during necessary travel to health-related appointments and protective supervision.

(b) Commencing in fiscal year 1985–86, each county shall be notified of its allocation and projected caseload by July 31 of each fiscal year and shall submit a plan to the department within 30 days showing how the county intends to keep program expenditures under this article within the amount of its allocation.

(c) Each county shall report all of the following to the department by August 31 of each year:

(1) Information on caseload, including the number of persons who receive 20 or more hours of personal services, between 18 and 20 hours of personal services, the number of persons receiving protective supervision, and the number of cases per age of recipient.

(2) An estimate of the impact on caseload and hours of service in the In-Home Supportive Services program in the current fiscal year from In-Home Supportive Services referrals made by any of the following programs:

(A) The new linkages program authorized by Chapter 1637 of the Statutes of 1984.

(B) Multipurpose senior service centers.

(C) Adult day health care centers.

(D) Diagnostically related groups and early hospital discharges.

(E) Preadmission screening.

(F) Reported adult abuse.

This estimate shall be based upon referrals from these programs made during the preceding fiscal year.

The county shall also report which methods of outreach are being utilized by the county regarding the availability of services under this article.

When a county does not have the capability of reporting on all cases specified under paragraphs (1) and (2) in a timely manner, the county may report to the department on the basis of a representative sample of cases.

The department shall consider using this information to develop its annual budget request or, should the department decide that a deficiency appropriation is necessary, any deficiency request.

(d) On or before January 10 of each year, the department shall submit a report to the Joint Legislative Budget Committee and the fiscal committees of both houses which includes a compilation by county of the data collected pursuant to paragraphs (1) and (2) of subdivision (c) and, by county (1) the amount allocated at the beginning of the fiscal year, (2) the amount expended during the first three months of the fiscal year, (3) an estimate of total fiscal year expenditures, (4) any reallocation of funds among counties, and (5) a list, by county, of any new programs under subparagraphs (A), (B), (C), and (E) of paragraph (2) of subdivision (c).

SEC. 3. Section 12302 of the Welfare and Institutions Code is amended to read:

12302. Each county is obligated to ensure that services are provided to all eligible recipients during each month of the year in accordance with the county plan.

In order to implement such a plan, an individual county may hire homemakers and other in-home supportive personnel in accordance with established county civil service requirements or merit system requirements for those counties not having civil service, or may contract with a city, county, or city and county agency, a local health district, a voluntary nonprofit agency, a proprietary agency, or an individual or make direct payment to a recipient for the purchase of services.

County plans are effective upon submission to the department. In reviewing county plans the department shall assure that plans are in compliance with provisions of this article including compliance with Section 12301. In the event the department finds a county plan is not in compliance it shall take appropriate action to assure compliance.

The department shall monitor the actual monthly expenditures where available for services to assure compliance with the county plans. If the county's expenditure pattern is not consistent with the plan, the department shall require the county to amend the plan.

SEC. 4. Section 12306 of the Welfare and Institutions Code is repealed.

SEC. 5. Section 12306 is added to the Welfare and Institutions Code, to read:

12306. With respect to in-home supportive services, the state shall pay from the General Fund the matching funds necessary to obtain federal social services funds. If the federal social services funds and matching state funds are insufficient to provide the services authorized by this article, the state shall fully reimburse the counties for all services provided under this article, except that the counties

shall contribute amounts equal to their contribution in the 1987–88 fiscal year.

SEC. 6. Section 12306.1 of the Welfare and Institutions Code is repealed.

SEC. 7. This act shall become operative on July 1, 1988.

SEC. 8. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1439

An act to amend Section 4104 of the Food and Agricultural Code, relating to museums.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 4104 of the Food and Agricultural Code is amended to read:

4104. (a) The Legislature hereby finds and declares that there is a need for a state repository dedicated to the diverse contributions of Afro-Americans to the history and culture of this state and the nation.

(b) The California Afro-American Museum is a part of, and coexists with, the California Museum of Science and Industry.

(c) The California Afro-American Museum is governed by a seven-member board of directors. The Governor shall appoint the seven members, at least four of whom shall reside within the boundaries of the 6th Agricultural District. In addition, the Senator representing the Senate district in which the California Afro-American Museum is located and the Assembly Member representing the Assembly district in which the museum is located shall also be ex officio nonvoting members of the board. The two legislative ex officio nonvoting members of the board shall participate in the activities of the board to the extent that their participation is not incompatible with their respective positions as Members of the Legislature. The appointees of the Governor shall be appointed to four-year terms with the initial terms of appointment expiring as follows: one term expiring January 1, 1984, one term expiring January 1, 1985, one term expiring January 1, 1986, and one

term expiring January 1, 1987. The person previously appointed to the Advisory Board of the California Museum of Afro-American History and Culture by the Board of Directors of the California Museum of Science and Industry prior to the amendments made to this section by Senate Bill 464 of the 1987–88 Regular Session shall serve on the Board of Directors of the California Afro-American Museum until the Governor makes the fifth appointment authorized pursuant to those amendments. The fifth appointment made to the board shall serve a term expiring on January 1, 1990, the sixth appointment shall serve a term expiring on January 1, 1991, and the seventh appointment shall serve a term expiring on January 1, 1992.

(d) The Board of Directors of the California Afro-American Museum shall have the sole authority, subject to existing state laws, regulations, and procedures, to determine how funds which have been appropriated and duly allocated by the Legislature and the Governor for support of the museum shall be expended. The board shall also have the sole authority, subject to existing state laws, regulations, and procedures, to contract with any state agency, institution, independent contractor, or private nonprofit organization that the board determines to be appropriate and qualified to assist in the operation of the museum. The board shall further have authority to establish the operations, programs, activities, and exhibitions of the California Afro-American Museum. The Board of Directors of the California Afro-American Museum shall be solely responsible for the actions taken and the expenditures made by the staff of the California Afro-American Museum in the scope and course of their employment.

(e) The Board of Directors of the California Afro-American Museum shall appoint an executive director, who shall be exempt from civil service, and any necessary staff to carry out the provisions of this section, who shall be subject to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code). The California Afro-American Museum shall submit its annual budget request directly to the State and Consumer Services Agency. The California Afro-American Museum may accept grants, contributions, and appropriations from federal, state, local, or private sources for its operation.

(f) The California Afro-American Museum shall preserve, collect, and display samples of Afro-American contributions to the arts, sciences, religion, education, literature, entertainment, politics, sports, and history of the state and the nation. The enrichment and historical perspective of such a collection shall be made available for public use and enjoyment.

SEC. 2. On July 1, 1988, the California Museum of Science and Industry and the California Afro-American Museum shall jointly prepare and execute an agreement specifying the support functions which the California Museum of Science and Industry shall continue to provide for the California Afro-American Museum. It is the intent of the Legislature that the recognition of independence for the

California Afro-American Museum and its board of directors provided by this act should not result in increasing the combined support costs for the California Museum of Science and Industry and the California Afro-American Museum.

CHAPTER 1440

An act to amend Sections 53313, 53313.5, 53314.3, 53314.9, 53317, 53321, 53326, 53327, 53329, 53339.8, 53339.9, 53340, 53350, 53351, and 53363.9 of, and to add Sections 53315.6, 53315.8, 53327.5, 53340.1, 53340.3, 53340.7, 53344, 53362.7, and 54905 to, the Government Code, and to amend Sections 3110 and 3114 of the Streets and Highways Code, relating to community facilities.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 53313 of the Government Code is amended to read:

53313. A community facilities district may be established under this chapter to finance any one or more of the following types of additional services within an area:

(a) Police protection services, including, but not limited to, criminal justice services. However, criminal justice services shall be limited to providing services for jails, detention facilities, and juvenile halls.

(b) Fire protection and suppression services, and ambulance and paramedic services.

(c) Recreation program services, library services, and the operation and maintenance of parks, parkways, open space, and museums and cultural facilities. A special tax may be levied for this purpose only upon approval of the voters as specified in subdivision (b) of Section 53328. However, the requirement contained in subdivision (b) of Section 53328 that a certain number of persons have been registered to vote for each of the 90 days preceding the close of the protest hearing does not apply to an election to enact a special tax for recreation program services, library services, and the operation and maintenance of parks and parkways subject to subdivision (c) of Section 53326.

(d) Flood and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems.

A community facilities district may only finance the services authorized in this section to the extent that they are in addition to those provided in the territory of the district before the district was created. The additional services may not supplant services already

available within that territory when the district was created.

SEC. 1.5. Section 53313.5 of the Government Code is amended to read:

53313.5. A community facilities district may also finance the purchase, construction, expansion, improvement, or rehabilitation of any real or other tangible property with an estimated useful life of five years or longer or may finance planning and design work which is directly related to the purchase, construction, expansion, or rehabilitation of any real or tangible property. The facilities need not be physically located within the district. A district may not lease out facilities which it has financed except pursuant to a lease agreement or annexation agreement entered into prior to January 1, 1988. A district may only finance the purchase of facilities whose construction has been completed, as determined by the legislative body, before the resolution of formation to establish the district is adopted pursuant to Section 53325.1, except that a district may finance the purchase of facilities completed after the adoption of the resolution of formation if the facility was constructed as if it had been constructed under the direction and supervision, or under the authority of, the local agency. For example, a community facilities district may finance facilities, including, but not limited to, the following:

(a) Local park, recreation, parkway, and open-space facilities.

(b) Elementary and secondary school sites and structures provided that the facilities meet the building area and cost standards established by the State Allocation Board.

(c) Libraries.

(d) The district may also finance the construction or undergrounding of natural gas pipeline facilities, telephone lines, facilities for the transmission or distribution of electrical energy, and cable television lines to provide access to those services to customers who do not have access to those services or to mitigate existing visual blight. The district may enter into an agreement with a public utility to utilize those facilities to provide a particular service and for the conveyance of those facilities to the public utility. If the facilities are conveyed to the public utility, the agreement shall provide for a refund by the public utility to the district or improvement area thereof for the cost of the facilities. Any reimbursement made to the district shall be utilized to reduce or minimize the special tax levied within the district or improvement area, or to construct or acquire additional facilities within the district or improvement area, as specified in the resolution of formation.

(e) The district may also pay in full all amounts necessary to eliminate any fixed special assessment liens or to repay or defease any indebtedness secured by any tax, fee, charge, or assessment levied within the area of a community facilities district or may pay debt service on that indebtedness.

(f) Any other governmental facilities which the legislative body creating the community facilities district is authorized by law to

contribute revenue to, or construct, own, or operate. However, the district shall not operate or maintain or, except as otherwise provided in subdivision (d), have any ownership interest in any facilities for the transmission or distribution of natural gas, telephone service, or electrical energy.

SEC. 2. Section 53314.3 of the Government Code is amended to read:

53314.3. In the first fiscal year in which a special tax or charge is levied for any facility or for any services in a community facilities district or a zone within a community facilities district, the legislative body shall include in the levy a sum sufficient to repay to the legislative body the amounts transferred to that district or zone pursuant to Section 53314. The amounts borrowed, with interest, shall be retransferred to the proper fund or funds from the first available receipts from the special levy in that district or zone.

Notwithstanding the above provisions, the legislative body may, by a resolution adopted no later than the time of the first levy, extend the repayment of the transferred funds over a period of time not to exceed three consecutive years, in which event the levy and each subsequent levy shall include a sum sufficient to repay the amount specified by the legislative body for the year of the levy.

SEC. 2.5. Section 53314.9 of the Government Code is amended to read:

53314.9. (a) Notwithstanding Section 53313.5, at any time either before or after the formation of the district, the legislative body may accept advances of funds or work in-kind from any source, including, but not limited to, private persons or private entities and may provide, by resolution, for the use of those funds or that work in-kind for any authorized purpose, including, but not limited to, paying any cost incurred by the local agency in creating a district. The legislative body may enter into an agreement, by resolution, with the person or entity advancing the funds or work in-kind, to repay all or a portion of the funds advanced, or to reimburse the person or entity for the value, or cost, whichever is less, of the work in-kind, as determined by the legislative body, with or without interest, under all of the following conditions:

(1) The proposal to repay the funds or the value or cost of the work in-kind, whichever is less, is included both in the resolution of intention to establish a district adopted pursuant to Section 53321 and in the resolution of formation to establish the district adopted pursuant to Section 53325.1, or in the resolution of consideration to alter the types of public facilities and services provided within an established district adopted pursuant to Section 53334.

(2) Any proposed special tax or change in a special tax is approved by the qualified electors of the district pursuant to this chapter. Any agreement shall specify that if the qualified electors of the district do not approve the proposed special tax or change in a special tax, the local agency shall return any funds which have not been committed for any authorized purpose by the time of the election to the person

or entity advancing the funds.

(3) Any work in-kind accepted pursuant to this section shall have been performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority of, the local agency.

(b) The agreement shall not constitute a debt or liability of the local agency.

SEC. 3. Section 53315.6 is added to the Government Code, to read:

53315.6. When any proceeding is initiated under this chapter by a legislative body other than that of a city or county, a copy of the resolution of intention shall be transmitted to the legislative body of the city, where the land to be assessed lies within the corporate limits of any city, or of the county, where the land to be assessed lies within an unincorporated territory.

SEC. 3.1. Section 53315.8 is added to the Government Code, to read:

53315.8. A county may not form a district within the territorial jurisdiction of a city without the consent of the legislative body of the city.

SEC. 3.3. Section 53317 of the Government Code is amended to read:

53317. Unless the context otherwise requires, the definitions contained in this article shall govern the construction of this chapter.

(a) "Clerk" means the clerk of the legislative body of a local agency.

(b) "Community facilities district" means a legally constituted governmental entity established pursuant to this chapter for the sole purpose of financing facilities and services.

(c) "Cost" means the expense of constructing or purchasing the public facility and of related land, right of way, easements, including incidental expenses, and the cost of providing authorized services, including incidental expenses.

(d) "Debt" means any binding obligation to repay a sum of money, including obligations in the form of bonds, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals.

(e) "Incidental expense" includes all of the following:

(1) The cost of planning and designing public facilities to be financed pursuant to this chapter, including the cost of environmental evaluations of those facilities.

(2) The costs associated with the creation of the district, issuance of bonds, determination of the amount of taxes, collection of taxes, payment of taxes, or costs otherwise incurred in order to carry out the authorized purposes of the district.

(3) Any other expenses incidental to the construction, completion, and inspection of the authorized work.

(f) "Landowner" or "owner of land" means any person shown as

the owner of land on the last equalized assessment roll or otherwise known to be the owner of the land by the legislative body. The legislative body has no obligation to obtain other information as to the ownership of the land, and its determination of ownership shall be final and conclusive for the purposes of this chapter. A public agency is not a landowner or owner of land for purposes of this chapter, unless the land owned by a public agency would be subject to a special tax pursuant to Section 53340.1.

(g) "Legislative body" means the legislative body or governing board of any local agency.

(h) "Local agency" means any city or county, whether general law or chartered, special district, school district, joint powers entity created pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1, or any other municipal corporation, district, or political subdivision of the state.

(i) "Services" means the provision of police and fire protection services, recreation programs, library services, operation and maintenance of museums and cultural facilities, the operation and maintenance of parks and parkways, and the provision of flood and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems. "Services" includes the performance by employees of functions, operations, maintenance, and repair activities.

SEC. 3.5. Section 53321 of the Government Code is amended to read:

53321. Proceedings for the establishment of a community facilities district shall be instituted by the adoption of a resolution of intention to establish the district which shall do all of the following:

(a) State that a community facilities district is proposed to be established under the terms of this chapter and describe the boundaries of the territory proposed for inclusion in the district, which may be accomplished by reference to a map on file in the office of the clerk, showing the proposed community facilities district.

(b) State the name proposed for the district in substantially the following form: "Community Facilities District No. _____."

(c) State the type or types of public facilities and services proposed to be financed by the district pursuant to this chapter. If the purchase of completed public facilities or the incurring of incidental expenses is proposed, the resolution shall identify those facilities or expenses.

(d) State that, except where funds are otherwise available, a special tax sufficient to pay for all facilities and services will be annually levied within the area. The resolution shall specify the rate and method of apportionment of the special tax in sufficient detail to allow each landowner or resident within the proposed district to estimate the maximum amount that he or she will have to pay. The legislative body may specify conditions under which the obligation to pay the specified special tax may be prepaid and permanently

satisfied.

(e) Fix a time and place for a public hearing on the establishment of the district which shall be not less than 30 or more than 60 days after the adoption of the resolution.

(f) Describe any adjustment in property taxation to pay prior indebtedness pursuant to Sections 53313.6 and 53313.7.

(g) A description of the proposed voting procedure.

SEC. 3.7. Section 53326 of the Government Code is amended to read:

53326. (a) The legislative body shall then submit the levy of any special taxes to the qualified electors of the proposed community facilities district in the next general election or in a special election to be held, notwithstanding any other requirement, including any requirement that elections be held on specified dates, contained in the Elections Code, at least 90 days, but not more than 180 days, following the adoption of the resolution of formation. The legislative body shall provide the resolution of formation, a certified map of sufficient scale and clarity to show the boundaries of the district, and a sufficient description to allow the election official to determine the boundaries of the district to the official conducting the election within three business days after the adoption of the resolution of formation. Assessor's parcel numbers for the land within the district shall be included if it is a landowner election or the district does not conform to an existing district's boundaries and if requested by the official conducting the election. If the election is to be held less than 125 days following the adoption of the resolution of formation, the concurrence of the election official conducting the election shall be required. However, any time limit specified by this section or requirement pertaining to the conduct of the election may be waived with the unanimous consent of the qualified electors of the proposed district and the concurrence of the election official conducting the election.

(b) Except as otherwise provided in subdivision (c), if at least 12 persons, who need not necessarily be the same 12 persons, have been registered to vote within the territory of the proposed community facilities district for each of the 90 days preceding the close of the protest hearing, the vote shall be by the registered voters of the proposed district, with each voter having one vote. Otherwise, the vote shall be by the landowners of the proposed district and each landowner who is the owner of record at the close of the protest hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre of land that he or she owns within the proposed community facilities district. The number of votes to be voted by a particular landowner shall be specified on the ballot provided to that landowner. If the vote is by landowners pursuant to this subdivision, the legislative body shall determine that any facilities financed by the district are necessary to meet increased demands placed upon local agencies as the result of development or rehabilitation occurring in the district.

(c) If the proposed special tax will not be apportioned on any portion of property in residential use at the time of the election, as determined by the legislative body, the legislative body may provide that the vote shall be by the landowners of the proposed district whose property would be subject to the tax if it were levied at the time of the election. Each of these landowners shall have one vote for each acre, or portion thereof, that the landowner owns within the proposed district which would be subject to the proposed tax if it were levied at the time of the election.

(d) Ballots for the special election authorized by subdivision (a) may be distributed to qualified electors by mail with return postage prepaid or by personal service by the election official. The official conducting the election may certify the proper mailing of ballots by an affidavit, which shall constitute conclusive proof of mailing in the absence of fraud. The voted ballots shall be returned to the election officer conducting the election not later than the hour specified in the resolution calling the election. However, if all the qualified voters have voted, the election shall be closed.

SEC. 4. Section 53327 of the Government Code is amended to read:

53327. (a) Except as otherwise provided in this chapter, the provisions of law regulating elections of the local agency that calls an election pursuant to this chapter, insofar as they may be applicable, shall govern all elections conducted pursuant to this chapter. Except as provided in subdivision (b), there shall be prepared and included in the ballot material provided to each voter, an impartial analysis pursuant to Section 3781 or 5011 of the Elections Code, arguments and rebuttals, if any, pursuant to Sections 3782 to 3787, inclusive, and 3795 of the Elections Code or pursuant to Sections 5012 to 5016, inclusive, and 5025 of the Elections Code.

(b) If the vote is to be by the landowners of the proposed district, analysis and arguments may be waived with the unanimous consent of all the landowners and shall be so stated in the order for the election.

SEC. 5. Section 53327.5 is added to the Government Code, to read:

53327.5. (a) If the election is to be conducted by mail ballot, the election official conducting the election shall provide ballots and election materials pursuant to subdivision (d) of Section 53326 and Section 53327, together with all supplies and instructions necessary for the use and return of the ballot.

(b) The identification envelope for return of mail ballots used in landowner elections shall contain the following:

(1) The name of the landowner.

(2) The address of the landowner.

(3) A declaration, under penalty of perjury, stating that the voter is the owner of record or the authorized representative of the landowner entitled to vote and is the person whose name appears on the identification envelope.

(4) The printed name and signature of the voter.

(5) The address of the voter.

(6) The date of signing and place of execution of the declaration pursuant to subdivision (c).

(7) A notice that the envelope contains an official ballot and is to be opened only by the canvassing board.

SEC. 6. Section 53329 of the Government Code is amended to read:

53329. After the canvass of returns of any election conducted pursuant to Section 53326, the legislative body shall take no further action with respect to levying the specified special tax within the community facilities district for one year from the date of the election if the question of levying that specified special tax fails to receive approval by two-thirds of the votes cast upon the question.

SEC. 7. Section 53339.8 of the Government Code is amended to read:

53339.8. After the canvass of returns of any election conducted in accordance with Section 53339.7, the legislative body shall determine that the area proposed to be annexed is added to and part of the existing community facilities district with full legal effect, and the legislative body may levy any special tax within the annexed territory, as specified in the resolution of intention to annex adopted pursuant to Section 53339.2, if two-thirds of the votes cast on the proposition are in favor of levying the special tax.

SEC. 8. Section 53339.9 of the Government Code is amended to read:

53339.9. After the canvass of returns of any election conducted in accordance with Section 53339.7, the legislative body shall take no further action on annexing the territory proposed to be annexed to the community facilities district for a period of one year from the date of the election if less than two-thirds of the votes cast on the proposition are in favor of levying the special tax.

SEC. 8.5. Section 53340 of the Government Code is amended to read:

53340. After a community facilities district has been created and authorized to levy specified special taxes pursuant to Article 2 (commencing with Section 53318), Article 3 (commencing with Section 53330), or Article 3.5 (commencing with Section 53339), the legislative body may, by ordinance, levy the special taxes at the rate and apportion them in the manner specified in the resolution adopted pursuant to Article 2 (commencing with Section 53318), Article 3 (commencing with Section 53330), or Article 3.5 (commencing with Section 53339), except that the legislative body may levy the special tax at a lower rate. Properties or entities of the state, federal, or other local governments shall, except as otherwise provided in Section 53317.3, be exempt from the special tax. No other properties or entities are exempt from the special tax unless the properties or entities are expressly exempted in the resolution of formation to establish a district adopted pursuant to Section 53325.1

or in a resolution of consideration to levy a new special tax or special taxes or to alter the rate or method of apportionment of an existing special tax as provided in Section 53334. The proceeds of any special tax may only be used to pay, in whole or part, the cost of providing public facilities, services, and incidental expenses pursuant to this chapter. The special tax may be collected in the same manner as ordinary ad valorem property taxes are collected and may be subject to the same penalties and the same procedure, sale, and lien priority in case of delinquency as is provided for ad valorem taxes, or another procedure may be adopted by the legislative body. The tax collector may collect the special tax at intervals as specified in the resolution of formation, including intervals different from the intervals at which the ordinary ad valorem property taxes are collected. The tax collector may deduct the reasonable administrative costs incurred in collecting the special tax.

SEC. 9. Section 53340.1 is added to the Government Code, to read:

53340.1. (a) If a public agency owning property, including property held in trust for any beneficiary, which is exempt from a special tax pursuant to Section 53340 grants a leasehold or other possessory interest in the property to a nonexempt person or entity, the special tax shall, notwithstanding Section 53340, be levied on the leasehold or possessory interest and shall be payable by the owner of the leasehold or possessory interest.

(b) When entering into a lease or other written contract creating a possessory interest that may be subject to taxation, pursuant to subdivision (a), the public agency shall include, or cause to be included, in the contract a statement that the property interest may be subject to special taxation pursuant to this chapter, and that the party in whom the possessory interest is vested may be subject to the payment of special taxes levied on the interest. Failure to comply with the requirements of this section shall not, however, invalidate the contract.

The requirement of this subdivision shall not apply to leases entered into prior to January 1, 1988.

(c) If the special tax on any possessory interest levied pursuant to subdivision (a) is unpaid when due, the tax collector may use those collection procedures which are available for the collection of assessments on the unsecured roll.

SEC. 10. Section 53340.3 is added to the Government Code, to read:

53340.3. At the request of the legislative body, the tax collector may set forth on the tax bill descriptive information provided by the legislative body to identify each public entity receiving portions of the revenue from the special tax levied pursuant to this chapter.

SEC. 11. Section 53340.7 is added to the Government Code, to read:

53340.7. If the legislative body supplies to the tax collector each year a listing of the specific amount due from each parcel within the

district, and the tax collector bills for and collects the tax without reference to tax rate areas, then Sections 54900 to 54916.5, inclusive, are not applicable to the formation of, change in the boundaries of, annexation to, or existence of, community facilities districts created pursuant to this chapter and there is no requirement that the statement and map described in these sections be filed with the State Board of Equalization or the county assessor. This section shall not prevent the voluntary filing of such a statement or map. This section does not constitute a change in, but is declaratory of, the existing law.

SEC. 12. Section 53344 is added to the Government Code, to read:

53344. In the event that the legislative body has specified conditions pursuant to Section 53321 under which the obligation to pay the special tax identified therein may be prepaid and permanently satisfied, and if the special tax is so prepaid and permanently satisfied as to a particular parcel of land, the legislative body shall prepare and record in the office of the county recorder of the county in which the parcel of land is located, and the county recorder shall accept for recordation, a Notice of Cancellation of Special Tax Authorization as to that parcel. The Notice of Cancellation of Special Tax Authorization shall identify with particularity the special tax being cancelled, shall contain the legal description and assessor's parcel number of the particular parcel of land subject to the tax, and shall contain the name of the owner of record of the parcel. The recorder shall mail the original Notice of Cancellation of Special Tax Authorization to the owner of the property after recording the document. The legislative body may specify a charge for the preparation and recordation of this notice.

SEC. 12.5. Section 53350 of the Government Code is amended to read:

53350. For purposes of financing of, or contributing to the financing of, specified public facilities, the legislative body may by resolution designate a portion or portions of the district as one or more improvement areas. An area shall be known as "Improvement Area No. _____" of " Community Facilities District _____." After the designation of an improvement area, all proceedings for purposes of a bond election and for the purpose of levying special taxes for payment of the bonds shall apply only to the improvement area for those specified facilities.

SEC. 13. Section 53351 of the Government Code is amended to read:

53351. After the legislative body has made its determination pursuant to Section 53350, if it deems it necessary to incur the bonded indebtedness, it shall by resolution state all of the following:

(a) That it deems it necessary to incur the bonded indebtedness.

(b) The purpose for which the bonded indebtedness will be incurred.

(c) Either of the following in accordance with its previous determination:

(1) That the whole of the district will pay for the bonded

indebtedness.

(2) That a portion of the district will pay for the bonded indebtedness, which portion shall be described in the resolution of the board made pursuant to Section 53350.

(d) The amount of debt to be incurred.

(e) The maximum term the bonds to be issued shall run before maturity, which term shall not exceed 40 years.

(f) The maximum annual rate of interest to be paid, payable annually or semiannually, or in part annually and in part semiannually.

(g) That the proposition will be submitted to the voters.

(h) The date of the special community facilities district election (which may be consolidated with a general or special district election including an election to levy a special tax) at which time the proposition shall be submitted to the voters.

(i) If the election is not conducted by mail ballot, the hours between which the polls shall be open.

(j) If the election is conducted by mail ballot, the hour when the mailed ballots are required to be received in the office of the election officer conducting the election, and that if all qualified electors have voted, the election shall be closed.

SEC. 14. Section 53362.7 is added to the Government Code, to read:

53362.7. The total authorized amount of the bonded indebtedness of a district or an improvement area therein, as approved by the qualified voter thereof, shall not be reduced by the principal amount of any refunding bonds issued to refund any or all outstanding bonds of the district or improvement area. This section does not constitute a change in, but is declaratory of, the existing law.

SEC. 15. Section 53363.9 of the Government Code is amended to read:

53363.9. The proceeds and investments in the "refunding fund" shall be in an amount sufficient to meet either the requirements of paragraph (a) or paragraph (b) at the time of issuance of the refunding bonds, as certified by a certified public accountant licensed to practice in this state.

(a) The proceeds and investments, together with any interest or other gain to be derived from any such investment, shall be in an amount sufficient to pay the principal, interest, and redemption premiums, if any, on the refunded bonds as they become due or at designated dates prior to maturity and the designated costs of issuance of the refunding bonds.

(b) The proceeds and investments, together with any interest or other gain to be derived from any such investment, shall be in an amount sufficient to pay the principal, interest, and redemption premiums, if any, on the refunding bonds prior to the maturity of the bonds to be refunded or prior to a designated date or dates before the maturity of the bonds to be refunded, the principal and any redemption premiums due on the refunded bonds at maturity or

upon that designated date or dates, and the designated costs of issuance of the refunding bonds.

SEC. 16. Section 54905 is added to the Government Code, to read:

54905. This chapter does not apply to any community facilities district organized 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) if the district does not provide for the collection of special taxes by reference to tax rate areas.

SEC. 17. Section 3110 of the Streets and Highways Code is amended to read:

3110. (a) The proposed boundaries of the district to be specially taxed or assessed in proceedings shall be described by resolution or ordinance adopted by the legislative body prior to the hearing on the formation or extent of the district. The description of the proposed boundaries shall be by reference to a map of the district which shall indicate by a boundary line the extent of the territory included in the proposed district and the map shall govern for all details as to the extent of the district. The map shall also contain the name of the city and a distinctive designation, in words or by number, of the district shown on the map.

(b) The map shall be legibly drawn, printed or reproduced by a process that provides a permanent record. Each sheet of paper or other material used for the map shall be 18 by 26 inches in size, shall have clearly shown therein the particular number of the sheet, the total number of sheets comprising the map, and its relation to each adjoining sheet, and shall have encompassing its border a line that leaves a blank margin one inch in width.

The map shall be labeled substantially as follows: Proposed Boundaries of (here insert name or number of district) (here insert name of city and county thereafter), State of California.

If the map consists of more than one page, the same entitlement shall be on each page.

The map shall also have thereon legends reading substantially as follows:

(1) Filed in the office of the (clerk of the legislative body) this _____ day of _____ 19__.

_____

(Clerk of the legislative body)

(2) I hereby certify that the within map showing proposed boundaries of (here insert name or number of district) (here insert name of city, and, if not a county, insert name of county thereafter), State of California, was approved by the city council (or other appropriate legislative body) of the (here insert city) at a regular meeting thereof, held on the _____ day of _____, 19__, by its Resolution No. ____.

(3) Filed this _____ day of _____, 19__, at the hour of _____ o'clock __m. in Book _____ of Maps of Assessment and Community Facilities Districts at page _____, in the office of the

county recorder in the County of _____, State of California.

_____
(County Recorder of County of _____)

SEC. 18. Section 3114 of the Streets and Highways Code is amended to read:

3114. (a) This section applies only to assessment districts.

(b) After the confirmation by the legislative body of any assessment, the clerk of the legislative body shall cause to be filed in the office of the county recorder a copy of the assessment diagram.

(c) The assessment diagram shall be prepared by the engineer responsible for engineering work. The assessment diagram shall be legibly drawn, and at least one copy thereof shall be printed or reproduced by a process that provides a permanent record. Each sheet of paper or other material used for the permanent record map shall be 18 by 26 inches in size, shall have clearly shown thereon the particular number of the sheet, the total number of sheets comprising the map, its relation to each adjoining sheet, and shall have encompassing its border a line that leaves a blank margin one inch in width.

The map shall be labeled substantially as follows: Assessment Diagram, (here insert name or number of district) Assessment District, (here insert city and name of county thereafter), State of California.

The map shall also have thereon legends reading substantially as follows:

(1) Filed in the office of the (clerk of the legislative body), this _____ day of _____, 19__.

_____
(Clerk of the legislative body)

(2) Recorded in the office of the (superintendent of streets) this _____ day of _____, 19__.

_____
(Superintendent of Streets)

(3) An assessment was levied by the city council (or other appropriate legislative body) on the lots, pieces, and parcels of land shown on this assessment diagram. The assessment was levied on the _____ day of _____, 19__; the assessment diagram and the assessment roll were recorded in the office of the superintendent of streets of that city on the _____ day of _____, 19__. Reference is made to the assessment roll recorded in the office of the superintendent of streets for the exact amount of each assessment levied against each parcel of land shown on this assessment diagram.

_____
(Clerk of the legislative body)

(4) Filed this _____ day of _____, 19__, at the hour of _____ o'clock __m in Book _____ of Maps of Assessment and Community Facilities Districts at page _____, in the office of the

county recorder of the County of _____, State of California.

_____

(County Recorder of County of _____)

(d) The clerk shall file a copy of the assessment diagram referred to in subdivision (c) in the office of the county recorder of the county in which all or any part of the assessment district shown on the assessment diagram is located upon payment of the filing fee. The filing of the assessment diagram shall be made by the clerk.

(e) The county recorder shall endorse upon the assessment diagram filed with him or her, pursuant to subdivision (d), the time and date of filing and shall fasten the same securely in the "Book of Maps of Assessment and Community Facilities Districts" in which the county recorder is obligated to keep boundary maps under Section 3112. The county recorder shall cross-index the assessment diagram by reference to the city conducting the proceedings and by reference to page of the book of maps of assessment and community facilities districts in which the boundary map of the district was filed in the book.

(f) After the confirmation by the legislative body of any assessment and the recording of the assessment and diagram in the office of the street superintendent or other officer of the city in whose office the assessment and diagram shall have been recorded, the clerk of the legislative body shall execute and record a notice of assessment in the office of the county recorder of each county in which all or any part of the assessment district is located. The notice of assessment shall be in substantially the following form:

NOTICE OF ASSESSMENT

Pursuant to the requirements of Section 3114 of the Streets and Highways Code, the undersigned clerk of the legislative body of _____, State of California, hereby gives notice that a diagram and assessment were recorded in the office of the _____ of that city as provided for in Section 3114 of the Streets and Highways Code, and relating to the following described real property:

(The real property in the assessment district may be described by: (a) stating its exterior boundaries; or (b) giving a description thereof according to any official or recorded map; or (c) referring to the assessment diagram filed in accordance with subdivisions (d) and (e) of Section 3114 and the book and page number in the office of the county recorder of the filed plat or map.)

Notice is further given that upon the recording of this notice in the office of the county recorder, the several assessments assessed on the lots, pieces, and parcels shown on the filed assessment diagram shall become a lien upon the lots or portions of lots assessed, respectively.

Reference is made to the assessment diagram and assessment roll recorded in the office of the _____ of that city.

Dated: _____

_____

If the assessment district is located in two or more counties, the notice above set forth, in lieu of the paragraph following the description of the property, shall state:

Notice is further given that the above-described real property is located in the Counties of _____ and _____ and upon the recording of this notice in the office of the county recorder of all such counties, effective upon the date of the last such recording, the several assessments on the lots, pieces, and parcels shown on the filed assessment diagram shall become a lien upon the lots or portions of lots assessed, respectively.

SEC. 19. Any proceedings to create a community facilities district 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 of the Government Code, for which a resolution of intention has been adopted to establish the district prior to the effective date of this act, may be conducted in accordance with the terms of the Mello-Roos Community Facilities Act of 1982 in effect at the time the proceedings were initiated, or those proceedings may be conducted in accordance with the Mello-Roos Community Facilities Act of 1982 as affected by this act, as nearly as practicable, as determined by the legislative body and with the concurrence of the official conducting the election, as if this act had been in effect when the proceedings were commenced.

SEC. 20. 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 the local agency or school district has the authority to levy service charges, fees, or special taxes sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1441

An act to amend Sections 70045.9, 73520, 73521, 73522, 73523, 73524, 73529, 73663, 73683, 74922.5, 74923, 74924, and 74987 of, to add Sections 74135.6 and 73524 to, to repeal Section 73667 of, and to repeal and add Sections 73666, 74134, 74135, 74136, 74137, 74138, 74139, 74141, 74142, 74143, and 74144 of, the Government Code, relating to courts.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 70045.9 of the Government Code is amended to read:

70045.9. Notwithstanding any other provision of law, the provisions of this section shall apply to the official court reporters in Shasta 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 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 by the district attorney.

(7) Report the preliminary examination of those accused of crime before magistrates or municipal court judges within Shasta County, or before both.

(8) Report coroner's inquests, when requested by the coroner.

(9) Report hearings of the Board of Equalization of the County of Shasta, 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, he or she shall report matters before the board of supervisors.

(b) Each regular full-time court reporter shall be paid a monthly salary of one thousand four hundred seventy dollars ($1,470), unless the Board of Supervisors of Shasta County provides for compensation in excess of that amount, in which event the amount set 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 to the same privileges with respect to retirement, vacation (upon approval of judge to whom assigned), sick leave, and group insurance, which either now or hereafter may be provided by ordinance or resolution to other comparable employees of the County of Shasta.

(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 courts may require in order that the judicial business of the court may be carried on without delay. In the event the board of supervisors has entered into a contract for supplemental reporter services with a qualified person or persons first approved by the presiding judge of the superior court, the person or persons shall be appointed as reporter pro tempore. However, if the person or persons are not reasonably available, the judge may appoint any qualified person. 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 contract with the board of supervisors or, in absence thereof, with the per diem, transcription, and other fee provisions of Article 9 (commencing with Section 69941). Such 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 Shasta 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.

SEC. 2. Section 73520 of the Government Code is amended to read:

73520. This article applies only to the San Mateo County Judicial District.

SEC. 3. Section 73521 of the Government Code is amended to read:

73521. There shall be nine judges of the San Mateo County Judicial District.

SEC. 4. Section 73522 of the Government Code is amended to read:

73522. There shall be three court commissioners for the San Mateo County Judicial District, to be appointed by a majority of the municipal court judges.

At the direction of the judges, the commissioners may have the same jurisdiction and exercise the same powers and duties as commissioners of superior courts and as the judges of the municipal courts with respect to all subordinate judicial functions of the courts. The commissioners shall possess the same qualifications required of a municipal court judge and shall hold office during the pleasure of the court appointing them and shall not engage in the private practice of the law. They shall be ex officio deputy clerks.

Court commissioners shall receive a salary representing 80 percent of the annual salary for a superior court judge. The commissioners shall be entitled to the same employee benefits which are provided for other attachés and employees of the court, as determined by the

board of supervisors.

SEC. 5. Section 73523 of the Government Code is amended to read:

73523. The municipal court judges may, by a majority vote, appoint a municipal court administrator who shall be the clerk of the municipal court. The municipal court administrator shall serve at the pleasure of a majority of the judges. The municipal court administrator shall receive a biweekly salary at the rate specified in salary range number 2964 of the salary schedule. However, that salary may be adjusted pursuant to Section 73525. The municipal court administrator shall be the appointing authority for the positions listed in Section 73524.

The municipal court judges shall prescribe and regulate by majority vote the duties and authority of the municipal court administrator, among which shall be:

(a) To direct and coordinate the nonjudicial activities of the district.

(b) To coordinate the personnel practices in compliance with rules of the district and those of the County of San Mateo.

(c) To prepare and administer the budget of the district.

(d) To coordinate with county agencies, the acquisition, utilization, maintenance, and disposition of facilities, equipment, and supplies necessary for the operation of the district.

(e) To initiate studies and prepare appropriate recommendations and reports to the presiding judge and judges relating to the business of the district, including, but not limited to, such matters as standardization of forms and procedures, and of classification and compensation of court attachés.

(f) To collect, compare, and analyze statistical data on a continuing basis concerning the status of judicial and nonjudicial business of the district and to prepare periodic reports and recommendations based on such data.

(g) To provide for and conduct a program of in-service training for the personnel of the municipal court.

(h) To prepare procedure guides for the personnel of the municipal court.

(i) To make arrangements for and attend all meetings of the judges.

(j) To serve as liaison for the district with other persons, committees, boards, groups, and associations as directed by the presiding judge.

SEC. 6. Section 73524 of the Government Code is amended to read:

73524. The number of positions within each job classification which may be filled by appointment by the municipal court administrator, and the salary which constitutes compensation for each job classification, are as follows, subject to the authority of the board of supervisors to adjust the monthly salary pursuant to Section 73525:

Number	Classification	Salary Range Number
1	Assistant Municipal Court Clerk-Administrator	2288
3	Municipal Court Branch Manager	1935
1	Senior Systems Analyst	2439
1	Programmer/Analyst II	1909
1	Accountant III	1874
25	Municipal Court Clerk IV	1427
1	Municipal Court EDP Co-ordinator	1465
3	Accountant I	1386
1	Interpreter Services Coordinator	1478
16	Municipal Court Clerk III	1251
1	Secretary II	1242
1	Utility Worker III	1233
2	Data Entry Operator II	1161
94	Municipal Court Clerk I/II	1119
4	Data Entry Operator I	1040
7	Fiscal Clerk I/II	1034

SEC. 7. Section 73524.1 is added to the Government Code, to read:

73524.1. Whenever reference to a salary other than that of commissioner is made in any section of this article, the schedule of salaries found in the salary and benefits resolution of the County of San Mateo in effect on January 1, 1988, shall apply. However, adjustments to those salaries may be made pursuant to Section 73525.

SEC. 8. Section 73525 of the Government Code is amended to read:

73525. Whenever a reference to a salary range number is made in this article, the following schedule of biweekly salaries shall apply:

Salary Range Number	Steps				
	A	B	C	D	E
1012	648.00	684.80	724.00	765.60	809.60
1034	661.60	700.00	740.00	782.40	827.20
1040	665.60	704.00	744.00	787.20	832.00
1119	716.00	757.60	800.80	846.40	895.20
1161	743.20	785.60	830.40	878.40	928.80
1233	788.80	834.40	882.40	932.80	986.40
1242	795.20	840.80	888.80	940.00	993.60
1251	800.80	846.40	895.20	946.40	1000.80

1386	887.20	937.60	992.00	1048.80	1108.80
1427	916.60	965.60	1020.80	1080.00	1141.60
1478	945.60	1000.00	1057.60	1118.40	1182.40
1465	956.00	1011.20	1068.80	1130.40	1195.70
1874	1199.20	1268.00	1340.80	1417.60	1499.20
1909	1221.60	1292.00	1365.60	1444.00	1527.20
1935	1238.40	1309.60	1384.80	1464.00	1548.00
2288	1464.00	1548.00	1636.80	1731.20	1830.40
2439	1560.80	1650.40	1745.60	1845.60	1951.20

SEC. 9. Section 73529 of the Government Code is amended to read:

73529. Official reporters shall be appointed by the judges of the court pursuant to the provisions of Section 72194 and shall serve at the pleasure of the judges.

(a) The biweekly salary of each official reporter for the performance of duties required of each reporter by law shall be at the rates specified in salary range number 1875 of the salary schedule.

At the time each reporter is hired, the salary of that reporter shall be fixed in the same manner as provided for classified employees of the county under the authority of the county charter. A step advancement from step A to step B may be granted on the first day of the pay period following completion of 26 full weeks of service in the position. A person may advance to steps C, D, and E upon completion of successive 52-week periods of service. All merit increases as provided herein shall be made at the determination of the judges of the court.

The per diem compensation for pro tempore reporters shall be one-tenth of step E in the biweekly salary range established for official reporters, except that the rate of per diem compensation shall be pro rated on the basis of one-half day of compensation if the pro tempore reporter renders only one-half day of service.

(b) Vacation allowances and sick leave allowances for official reporters shall be the same as provided for classified employees of the county under the authority of the county charter.

(c) During the hours which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of the duties required of them by law and shall not engage in or solicit to engage in any other employment in their professional capacity.

Each official reporter shall perform the duties required of him or her by law. In addition, the reporter shall render stenographic or clerical assistance, or both, to the judge or judges of the municipal court as the judge or judges may direct.

SEC. 10. Section 73663 of the Government Code is amended to read:

73663. The clerk of the municipal court may appoint, with the approval of the presiding judge and the concurrence of the board of supervisors, one chief deputy clerk, four court clerks II, five court

clerks I, and five clerk-typists II.

SEC. 11. Section 73666 of the Government Code is repealed.

SEC. 12. Section 73666 is added to the Government Code, to read:

73666. Subject to Section 72001, the compensation for any classification listed in Section 73662, 73663, or 73665 shall be governed by the Humboldt County Salary Resolution and Memoranda of Understanding, if any, with the recognized labor organizations representing court employees in effect on January 1, 1988. The compensation and benefits for the position of marshal of the municipal court shall be set at the level of a sheriff's lieutenant plus 15 salary ranges.

SEC. 13. Section 73667 of the Government Code is repealed.

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 729.
(2) One Administrative Secretary-Conf. at salary range 781.
(3) One Stenographer II-Conf. at salary range 528.
(4) One Stenographer I-Conf. at salary range 433.
(5) Two Chief Deputy Clerks at salary range 869.
(6) Fourteen Court Clerks at salary range 704.
(7) One Supervising Legal Process Clerks at salary range 780.
(8) Three Senior Legal Process Clerks at salary range 758.
(9) Twelve Legal Process Clerks II at salary range 704.
(10) Thirteen Legal Process Clerks I at salary range 614.
(11) Forty-seven Office Assistants III at salary range 525.
(12) Forty-eight Office Assistants II at salary range 473.
(13) Forty-four Office Assistants I at salary range 396.
(14) One Municipal Court Interpreter at salary range 619.

(b) Salary ranges indicated in paragraphs (1) through (10) and paragraph (14) of subdivision (a) are effective December 30, 1985. Salary ranges indicated in paragraphs (11) through (13) of subdivision (a) are effective January 13, 1986.

(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) not to exceed a total of 65.

(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 704.
(2) One Supervising Legal Process Clerk at salary range 780.
(3) Six Legal Process Clerks II at salary range 704.
(4) Six Legal Process Clerks I at salary range 614.
(5) Six Office Assistants III at salary range 525.
(6) Six Office Assistants II at salary range 473.

(7) Six Office Assistants I at salary range 396.

(e) Salary ranges indicated in paragraphs (1) through (4) of subdivision (d) are effective December 30, 1985. Salary ranges indicated in paragraphs (5) through (7) of subdivision (d) are effective January 13, 1986.

The clerk may appoint any combination of the specified number of personnel in each of paragraphs (2) through (7) of subdivision (d) not to exceed a total of six.

SEC. 15. Section 74134 of the Government Code is repealed.

SEC. 16. 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 351 and the clerk/administrator may appoint:

(a) One accounting technician on range 199.

(b) One assistant clerk/administrator-Riverside Judicial District on range 267.

(c) One municipal court branch manager on range 232.

(d) Twenty-seven municipal court clerks on range 156.

(e) Three municipal court division supervisors on range 216.

(f) Eight municipal courtroom clerks on range 202.

(g) One secretary I on range 194.

(h) One senior accounting clerk on range 169.

(i) Six senior municipal court clerks on range 177.

SEC. 17. Section 74135 of the Government Code is repealed.

SEC. 18. Section 74135 is added to the Government Code, to read:

74135. In the Riverside Judicial District, the salary of the marshal shall be fifty-five thousand seven hundred eighty-five dollars and sixty cents ($55,785.60) per year, and the marshal may appoint:

(a) One correctional officer I on range 158.

(b) Two data terminal operators II on range 139.

(c) Ten deputy marshals I B on range 238.

(d) One deputy marshal II B on range 269.

(e) Four deputy marshals II B-S on range 278.

(f) Four investigative assistants on range 161.

(g) Two marshal's captains B on range 348.

(h) One marshal's lieutenant B on range 320.

(i) Two marshal's sergeants B on range 300.

(j) One secretary I on range 194.

(k) One senior accounting clerk on range 169.

(*l*) Three typist clerks II on range 129.

SEC. 19. Section 74135.6 is added to the Government Code, to read:

74135.6. By majority vote, the municipal court judges of Riverside County may appoint a court commissioner who shall meet the qualifications and have the powers and duties specified in Sections 72190, 72190.1, and 72190.2 of this code, and Section 259 of the Code of Civil Procedure. Notwithstanding those powers and duties, the commissioner shall be primarily assigned to hear and determine actions filed for enforcement of county and municipal ordinances.

The commissioner may sit in any judicial district in Riverside County, as need arises. The salary of the commissioner for all duties performed pursuant to this section shall be equal to 75 percent of the salary of a judge of the municipal court. The commissioner shall be entitled to the same benefits as are or shall be provided to a commissioner of the superior court in Riverside County.

SEC. 20. Section 74136 of the Government Code is repealed.

SEC. 21. 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 351 and the clerk/administrator may appoint:

(a) One accounting clerk on range 138.

(b) One accounting technician on range 199.

(c) One assistant clerk/administrator-Desert Judicial District on range 267.

(d) One court reporter at one thousand six hundred thirty-two dollars and eighty cents ($1,632.80) biweekly.

(e) Three municipal court branch managers on range 232.

(f) Twenty-seven municipal court clerks on range 156.

(g) Two municipal court division supervisors on range 216.

(h) Six municipal courtroom clerks on range 202.

(i) Two senior accounting clerks on range 169.

(j) Seven senior municipal court clerks on range 177.

(k) One senior stenographer clerk on range 177.

SEC. 22. Section 74137 of the Government Code is repealed.

SEC. 23. Section 74137 is added to the Government Code, to read:

74137. In the Desert Judicial District, the salary of the marshal shall be fifty-two thousand eight hundred seventy-three dollars and sixty cents ($52,873.60) per year, and the marshal may appoint:

(a) One accounting clerk on range 138.

(b) One assistant marshal B on range 337.

(c) Seven deputy marshals I B on range 238.

(d) Six deputy marshals II B on range 269.

(e) Two deputy marshals II B-S on range 278.

(f) One marshal's lieutenant B on range 320.

(g) Three marshal's sergeants B on range 300.

(h) One senior accounting clerk on range 169.

(i) Five typist clerks II on range 129.

SEC. 24. Section 74138 of the Government Code is repealed.

SEC. 25. 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 291, and the clerk/administrator may appoint:

(a) One municipal court branch manager on range 232.

(b) Five municipal court clerks on range 156.

(c) Two municipal court division supervisors on range 216.

(d) Two municipal courtroom clerks on range 202.

(e) One senior accounting clerk on range 169.

SEC. 26. Section 74139 of the Government Code is repealed.

SEC. 27. Section 74139 is added to the Government Code, to read:

74139. In the Corona Judicial District the marshal may appoint:

(a) One accounting clerk on range 138.

(b) Two deputy marshals I B on range 238.

(c) Two deputy marshals II B on range 269.

(d) One investigative assistant on range 161.

(e) One marshal's sergeant B on range 300.

(f) One typist clerk II on range 129. .

SEC. 28. Section 74141 of the Government Code is repealed.

SEC. 29. 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 291, and the clerk/administrator may appoint:

(a) Two accounting clerks on range 138.

(b) One bail clerk on range 153.

(c) Two municipal court branch managers on range 232.

(d) Twelve municipal court clerks on range 156.

(e) One municipal court division supervisor on range 216.

(f) Five municipal courtroom clerks on range 202.

(g) One senior accounting clerk on range 169.

(h) Four senior municipal court clerks on range 177.

(i) One traffic reference-assistant clerk on range 288.

SEC. 30. Section 74142 of the Government Code is repealed.

SEC. 31. Section 74142 is added to the Government Code, to read:

74142. In the Mt. San Jacinto Judicial District the marshal may appoint:

(a) Two accounting clerks on range 138.

(b) Three deputy marshals I B on range 238.

(c) Three deputy marshals II B on range 269.

(d) One investigative assistant on range 161.

(e) One marshal's lieutenant B on range 320.

(f) One marshal's sergeant B on range 300.

(g) One senior accounting clerk on range 169.

(h) One typist clerk II on range 129.

SEC. 32. Section 74143 of the Government Code is repealed.

SEC. 33. 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 291, and the clerk/administrator may appoint:

(a) One municipal court branch manager on range 232.

(b) Eight municipal court clerks on range 156.

(c) Two municipal court division supervisors on range 216.

(d) Two municipal courtroom clerks on range 202.

(e) One senior accounting clerk on range 169.

(f) One senior municipal court clerk on range 177.

SEC. 34. Section 74144 of the Government Code is repealed.

SEC. 35. Section 74144 is added to the Government Code, to read:

74144. In the Three Lakes Judicial District, the marshal may appoint:

(a) One accounting clerk on range 138.
(b) Three deputy marshals I B on range 238.
(c) Three deputy marshals II B on range 269.
(d) Two investigative assistants on range 161.
(e) One marshal's sergeant B on range 300.
(f) Two typist clerks II on range 129.

SEC. 36. Section 74922.5 of the Government Code is amended to read:

74922.5. There shall be one marshal for each municipal court who shall receive a biweekly salary of one thousand two hundred sixty-five dollars and eighty-four cents ($1,265.84). The marshal of the Visalia Judicial District may appoint four deputy marshals and one account clerk. The marshals of the Porterville and Tulare-Pixley Judicial Districts may each appoint two deputy marshals and one account clerk, each of whom shall receive a salary in accordance with Sections 74923 and 74924.

SEC. 37. Section 74923 of the Government Code is amended to read:

74923. The biweekly salaries for the following classes of positions shall be 80 times the hourly rate set forth in the following schedule:

TITLE	RANGE	A	B	C	D	E
Clerk municipal court	178	11 520	12.105	12.720	13.367	14.047
Assistant clerk municipal court	161	9.734	10.229	10.749	11 294	11 868
Court clerk III	144	8.227	8 644	9.083	9 543	10.028
Court clerk II	129	7 093	7 452	7.830	8 227	8 644
Court clerk I	114	6 116	6 426	6 751	7.093	7 452
Office assistant III	120	6.490	6.818	7.163	7.526	7.908
Account clerk	114	6.116	6.426	6 751	7.093	7 452
Office assistant II	110	5 880	6.177	6 490	6 818	7.163
Deputy marshal	162	9.831	10 331	10 856	11.406	11 986

SEC. 38. Section 74924 of the Government Code is amended to read:

74924. Subject to the provisions of Section 72001, the compensation of officers and attachés shall be governed as follows:

(a) The initial hiring rate for each position shall be at step A. If it is difficult to secure qualified personnel at such rate, or if a person of unusual qualifications is hired, the appointing authority, with the approval of the board of supervisors, may employ such person at one of the higher salary steps provided for the position.

(b) All step increases shall not be given as a matter of right but only when the presiding judge of the court determines that the officer or employee is properly entitled to receive it. Each person employed in the office of the clerk or marshal, including the clerk, may be advanced from step A to step B of a position after the completion of 13 full pay periods of service in the position. A person

may be advanced to steps C, D and E upon completion of 26 full pay periods of service in the same position.

(c) Certain classes of positions in the municipal courts in Tulare County are deemed to be comparable in job and salary level to certain positions in the service of the County of Tulare, or in some instances to such positions with a range adjustment on the salary schedule of the County of Tulare. Whenever the salary of a classification in the service of Tulare County is adjusted by the board of supervisors the salary of the comparable classification in the municipal courts shall be adjusted an equal number of ranges on the currently effective salary schedule established by the board of supervisors. Such adjustments shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to classifications in the county service, but such adjustments shall be effective only until January 1 of the second year following the year in which such adjustments are made, unless ratified by the Legislature. The following table sets forth the municipal court classification with the comparable county classification with appropriate range adjustment, if any, shown opposite thereto:

Municipal court classification	County classification
Clerk of the municipal court	Chief deputy court clerk plus 7 ranges
Assistant clerk, municipal court	Chief deputy court clerk minus 3 ranges
Court clerk III	Courtroom clerk
Court clerk II	Courtroom clerk minus 15 ranges
Court clerk I	Courtroom clerk minus 30 ranges
Account clerk	Account clerk
Office assistant II	Office assistant II
Intermediate clerk typist	Intermediate clerk typist
Marshal	Sheriff's sergeant
Deputy marshal	Bailiff plus 2 ranges
Senior clerk typist	Senior clerk typist
Office assistant III	Office assistant III

SEC. 39. 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 September 30, 1986:

Position Title	Number of Positions	Salary Range
Supervising Court Clerk	1	28.5
Court Clerk III	4	26.5
Court Clerk I/II	9	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. 40. 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 1442

An act to amend Section 23181 of, and to add Section 23701u to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 23701u is added to the Revenue and Taxation Code, to read:

23701u. An organization is operated exclusively for exempt purposes listed in Section 23701f and its net earnings are devoted exclusively to charitable purposes if that organization is a nonprofit public benefit corporation organized under Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, and if the specific and primary purpose for which the corporation is formed is to render financial assistance to government by financing, refinancing, acquiring, constructing, improving, leasing, selling, or otherwise conveying property of any kind to government. This financing ability shall be limited to the issuance of certificates of participation, or similar security arrangements.

For purposes of this section, "government" means the State of California, a city, city and county, county, school district, board of education, public corporation, hospital district, and any other special district.

An organization is not organized exclusively for the exempt purposes referred to in the first paragraph unless its assets are

irrevocably dedicated to one or more purposes listed in Section 23701f.

Dedication of assets requires that in the event of dissolution of an organization or the impossibility of performing the specific organizational purposes, including default of lease payments, the assets would continue to be devoted to exempt purposes. Assets shall be deemed irrevocably dedicated to exempt purposes if the articles of organization provide that upon dissolution the assets will be distributed to an organization which is exempt under this section, Section 23701d, or Section 23701f, or under Section 501(c)(3) or Section 501(c)(4) of the Internal Revenue Code or to the federal government, or to a state or local government for public purposes; or by a provision in the articles of organization, satisfactory to the Franchise Tax Board, that the property will be distributed in trust for exempt purposes; or by establishing that the assets are irrevocably dedicated to exempt purposes by operation of law. Any organization that has had its exemption revoked by the Franchise Tax Board for failure to comply with Section 23701f may request a further review of its status under this section.

SEC. 2. Section 23181 of the Revenue and Taxation Code is amended to read:

23181. (a) Except as otherwise provided herein, an annual tax is hereby imposed upon every bank doing business within the limits of this state according to or measured by its net income, upon the basis of its net income for the next preceding income year at the rate provided under Section 23186.

(b) If a bank commences to do business and ceases doing business in the same taxable year, the tax for such taxable year shall be according to or measured by its net income for such year, at the rate provided under Section 23186.

(c) With respect to a bank, other than a bank described in subdivision (b), which ceases doing business after December 31, 1972, the tax for the taxable year of cessation shall be:

(1) According to or measured by its net income for the next preceding income year, to be computed at the rate prescribed in Section 23186, plus

(2) According to or measured by its net income for the income year during which the bank ceased doing business, to be computed at the rate prescribed in Section 23186.

(d) In the case of a bank which ceased doing business before January 1, 1973, but dissolves or withdraws on such date or thereafter, the tax for the taxable year of dissolution or withdrawal shall be according to or measured by its net income for the income year during which the bank ceased doing business, unless such income has previously been included in the measure of tax for any taxable year, to be computed at the rate prescribed under Section 23186 for the taxable year of dissolution or withdrawal.

(e) Commencing with income years ending in 1980, every bank shall pay to the state a minimum tax of two hundred dollars ($200)

or the measured tax imposed on its income, whichever is greater.

SEC. 3. The Franchise Tax Board shall adopt regulations dealing with apportionment and allocation of income with respect to banks and financial corporations which consider the laws and regulations of other states with an objective of preventing multiple taxation or circumstances where income is taxed in no state.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, Sections 2 and 3 of this act shall apply to income years beginning on or after January 1, 1988.

CHAPTER 1443

An act to add Sections 22754.15, 22816.35, and 22816.4 to the Government Code, relating to health benefits, and making an appropriation therefor.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 22754.15 is added to the Government Code, to read:

22754.15. As used in this part, unless the context otherwise requires, "employee" includes any judge of a justice court. The terms "employer" and "contracting agency" with respect to any such judge enrolled in a health benefits plan include the county in which the justice court is located, provided that adoption of a resolution under Section 22850 shall not be required.

SEC. 2. Section 22816.35 is added to the Government Code, to read:

22816.35. Any justice court judge who is an employee or an annuitant of a county which is not a contracting agency under this part shall be entitled to enroll or have his or her coverage and the coverage of any family member continued, under this part, upon assuming payment of the contributions otherwise required for the total health benefit premium costs.

Monthly health benefit premium payments shall include an amount required of an employer under Section 22831.

A justice court judge may elect to come under the provisions of this part within 90 days of the effective date of this section or within 90 days of assuming office for the first time as such a judge.

An annuitant who retired from a justice court judgeship and otherwise meets the definition of annuitant may elect to come under the provisions of this part only within 90 days of the effective date of this section.

For a justice court judge who enrolls in, or continues the coverage

of, a health benefits plan pursuant to this section, the employing county, by the 10th day of each month, shall remit to the Public Employees' Contingency Reserve Fund the total health benefits premium costs assumed by the judge. For a judge who retired from a county which is subject to the County Employees Retirement Law of 1937, the county shall deduct the health benefits cost from the judge's retirement allowance and remit that sum to the Public Employees' Contingency Reserve Fund. A county may charge a judge a reasonable administrative fee or additional premium amount for the costs incurred by the county in remitting payments pursuant to this section.

SEC. 3. Section 22816.4 is added to the Government Code, to read:

22816.4. Any judge in a county which is not a contracting agency under this part who is certified by the Judicial Council as available for regular judicial assignment and who has not retired or deferred retirement, shall be eligible to enroll in a health plan under this part upon assuming payment of the contributions required on account of his or her enrollment. Regular judicial assignment is defined as 26 weeks of service in any prior 52-week period. Eligibility for coverage shall terminate upon notice from the Judicial Council that a judge is no longer available for regular judicial assignment in the month following receipt of this notice.

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 1444

An act to amend Section 11165 of, to amend the heading of Article 2.5 (commencing with Section 11165) of Chapter 2 of Title 1 of Part 4 of, to add Section 11164 to, and to repeal Section 11174.5 of, the Penal Code, relating to child abuse.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987.]

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

SECTION 1. The heading of Article 2.5 (commencing with Section 11165) of Chapter 2 of Title 1 of Part 4 of the Penal Code is amended to read:

Article 2.5. Child Abuse and Neglect Reporting Act

SEC. 1.5. Section 11164 is added to Article 2.5 (commencing with Section 11165) of Chapter 2 of Title 1 of Part 4 of the Penal Code, to read:

11164. (a) This article shall be known and may be cited as the Child Abuse and Neglect Reporting Act.

(b) The intent and purpose of this article 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. 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. It does not include an amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to person or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the pupil, as authorized by Section 49001 of the Education Code. It also does not include the exercise of the degree of physical control authorized by Section 44807 of the Education Code.

(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 prevention program in any public or private school.

(i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, or a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.

(j) "Nonmedical practitioner" means a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a marriage, family, or child counselor; or a religious practitioner who diagnoses, examines, or treats children.

(k) "Child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department. It does not include a school district police or security 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. It does not include an amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to person or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the pupil, as authorized by Section 49001 of the Education Code. It also does not include the exercise of the degree of physical control authorized by Section 44807 of the Education Code.

(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 facility, child day care facility, or any other facility licensed to care for children, 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 prevention program in any public or private school.

(i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, or a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.

(j) "Nonmedical practitioner" means a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a marriage, family, or child counselor; or a religious practitioner who diagnoses, examines, or treats children.

(k) "Child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department. It does not include a school district police or security 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 11174.5 of the Penal Code is repealed.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 11165 of the Penal Code proposed by both this bill and SB 691. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1988, (2) each bill amends Section 11165 of the Penal Code, and (3) this bill is enacted after SB 691, in which case Section 2 of this bill shall not become operative.

CHAPTER 1445

An act to add and repeal Article 15 (commencing with Section 14140) of Chapter 1 of Part 5 of Division 3 of Title 1 of the Corporations Code, and to repeal Article 7 (commencing with Section 44558) of Chapter 1 of Division 27 of the Health and Safety Code, relating to small business development, and making an appropriation therefor.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987]

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

SECTION 1. Article 15 (commencing with Section 14140) is added to Chapter 1 of Part 5 of Division 3 of Title 1 of the Corporations Code, to read:

Article 15. Hazardous Waste Reduction

14140. For purposes of this article, "generator" means a borrower pursuant to this article or a party who produces hazardous waste and applies for financial assistance pursuant to this article to reduce hazardous waste as generated.

14141. There is hereby created in the State Treasury as part of the Small Business Expansion Fund created pursuant to Section 14029,

the Hazardous Waste Reduction Loan Guarantee Account, for the sole purpose of receiving state, federal, or local government money, and other public or private money for expenditure by the OSB for the purposes of this article. The funds deposited in the Hazardous Waste Reduction Loan Guarantee Account are hereby continuously appropriated to the OSB, notwithstanding Section 13340 of the Government Code, for the purpose of allocation, with the approval of the Department of Finance, to a small business development corporation pursuant to Section 14142. The state is not liable or obligated beyond the state money which is allocated and deposited in the Hazardous Waste Reduction Loan Guarantee Account and is appropriated for these purposes.

14142. A small business development corporation established pursuant to Section 14030 may request the OSB to establish a hazardous waste reduction loan guarantee fund pursuant to regulations adopted pursuant to this article to make and guarantee loans approved by the small business development corporation pursuant to loan criteria established by the OSB, the policies of the small business development corporation, and pursuant to the requirements of Article 7.5 (commencing with Section 14066). The state is not liable or obligated as a result of the allocation of state money to a hazardous waste reduction loan guarantee fund of a small business development corporation beyond the state money which is allocated and deposited in the fund pursuant to this article, and which is not otherwise withdrawn pursuant to this article.

The OSB may transfer funds from the Hazardous Waste Reduction Loan Guarantee Account, upon the approval of the Department of Finance, to a small business development corporation's hazardous waste reduction loan guarantee fund for deposit in an account, established pursuant to Section 14144 solely to receive these funds. Any lending institution designated to hold these accounts shall be approved by the state for the receipt of state deposits.

The state has a residual interest in any funds deposited in a small business development corporation's hazardous waste reduction loan guarantee fund and in the investment return on those funds. The funds may be withdrawn from a small business development corporation's hazardous waste reduction loan guarantee fund by the executive director pursuant to Section 14044.1.

14143. Each small business development corporation shall use all reasonable means to maintain and enlarge the corporation's hazardous waste reduction loan guarantee fund, in order to accomplish the purposes of this article.

The OSB shall enter into an annual contract with each small business development corporation that is participating in the program established pursuant to Section 14142. The contract shall include a provision which specifies that any small business development corporation which annually encumbers an average of less than 60 percent of the corporation's hazardous waste reduction loan guarantee fund shall not receive the interest earned on these

funds proportionate to the amount encumbered, unless there are extenuating circumstances, as determined by the OSB.

14144. Each small business development corporation may establish an account, within its hazardous waste reduction loan guarantee fund, to receive funds appropriated to the Small Business Expansion Fund in the State Treasury. The OSB shall determine the allocation of funds, if any, from the hazardous waste reduction loan guarantee fund to the account. The OSB shall develop criteria to establish the eligibility of a small business development corporation to receive these funds.

14145. Each small business development corporation shall issue loans, and make loan guarantees, whenever possible, to generators for equipment, projects, or facilities to be used for the reduction of hazardous waste generated. Notwithstanding Section 14046 and subdivision (c) of Section 14131, a small business development corporation may use the income and trust accounts of the hazardous waste reduction loan guarantee fund for direct lending in compliance with regulations adopted pursuant to this article.

14146. The State Department of Health Services shall, before a loan or loan guarantee is received pursuant to this article, approve the loan or loan guarantee.

14147. The State Department of Health Services, the Department of Commerce, and each small business development corporation shall publicize and promote the availability of loan assistance pursuant to this article.

14148. The OSB may expend an amount up to, but not greater than, thirty thousand dollars ($30,000) from the earnings of the Hazardous Waste Reduction Loan Guarantee Account for allocation to the board to adopt regulations to implement the direct lending authorized by this article. The board shall adopt these regulations 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, and for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, the regulations shall be repealed within 180 days after their effective date unless the agency complies with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code pursuant to subdivision (e) of Section 11346.1 of the Government Code.

14149. This article shall remain in effect until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

SEC. 2. Article 7 (commencing with Section 44558) of Chapter 1 of Division 27 of the Health and Safety Code is repealed.

SEC. 3. The amount remaining in the Hazardous Waste Reduction Incentive Account in the General Fund is hereby

transferred to the Hazardous Waste Reduction Loan Guarantee Account created pursuant to Section 14141 of the Corporations Code.

CHAPTER 1446

An act relating to parks and recreation.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. The Director of General Services, with the consent of the Department of Parks and Recreation, may convey to the Cuyamaca Lake Recreation and Park District for park and recreation purposes the following three parcels of surplus property which currently are included in Cuyamaca Rancho State Park:

(a) Parcel 1 is that portion of Lot D of Cuyamaca Rancho, in the County of San Diego, State of California, as that lot is described in the Decree of Partition recorded in Book 43, Page 309 of Deeds filed in the Office of the County Recorder of that county described as follows:

Beginning at a point on the Southerly line of said Lot D, distant thereon South 76°00'00" East 2,290.90 feet from Corner No. 3 of Lot E of said Rancho, said point being also the Southwesterly corner of land described in Parcel 1 of a deed to Lake Cuyamaca Recreation and Park District, a State Agency, recorded November 9, 1972, as File No. 300045 of Official Records; thence along the Westerly line of said lands Northeasterly to a Northwest corner thereof, being a point on the Southerly line of that certain 120.00 feet, State Highway Right of Way as described in the deed recorded June 13, 1950, as File No. 65174 of Official Records; thence in a general Westerly direction along the Southerly line of said 120.00 foot State Highway, to an intersection with the Southerly line of said Lot D; thence Southeasterly along said Southerly line to the point of beginning.

Excepting from the above parcel a 50 foot by 50 foot "Dam Well" site which is the West 50 feet of the East 200 feet except the Northerly 70 feet and Southerly 80 feet thereof.

(b) Parcel 2 is all that portion of Lot E in Cuyamaca Rancho, in the County of San Diego, State of California, as set out in the Decree of Partition recorded in Book 43, Page 309 of Deeds, in the Records of the county, described as follows:

Beginning at a point on the Northerly line of said Lot E distant thereon South 76°00'00" East 1675.90 feet (Deed 1676.80 feet) from Corner No. 3 of said Lot E as set forth on the Map of Record of Survey No. 6602 on file in the Office of the County Recorder of San Diego County; thence along the boundary of said Record of Survey South 23°44'00" West 86.40 feet to the True Point of Beginning; thence

retracing North 23°44'00" East 86.40 feet; thence along said Northerly line of Lot E and along the boundary of said Record of Survey No. 6602, South 76°00'00" East 200.46 feet; thence leaving said Northerly line and boundary North 85°51'00" West 131.64 feet; thence South 67°44'00" West 105.88 feet to the True Point of Beginning.

(c) Parcel 3 is a portion of Parcel 4 as described in the deed to the State of California recorded December 31, 1975, as document number 75-369469, Official Records of San Diego County, the portion being in Lot E of Cuyamaca Rancho, as set out in Decree of Partition, recorded in Book 43, Page 309 of Deeds, Records of the county, in the County of San Diego, State of California, the portion being more particularly described as follows:

Beginning at a point on the Northerly line of said Lot E distant thereon South 76°00'00" East 1676.80 feet from Corner No. 3 of said Lot E, said point being a corner of the above recited Parcel 4; thence along the general Easterly line of said Parcel 4 South 23°44' West 602 feet, more or less, to the Northeasterly line of the lands conveyed to the State of California for highway purposes by deed recorded April 17, 1950, in Book 3582, Page 350, Official Records of said County; thence leaving said general Easterly line, Northwesterly and Northerly along said Northeasterly line and the general Easterly line of the lands conveyed to the State of California for highway purposes as described in the deed recorded June 13, 1950, in Book 3655, Page 473 of said Official Records 673 feet, more or less, to the Northerly line of said Lot E; thence along said Northerly line South 76°00'00" East 160 feet, more or less, to the point of beginning.

SEC. 2. (a) The property shall be used only for public park and recreation purposes. Upon any breach of these conditions, the state may reenter the property and, upon that reentry, the interest of the Cuyamaca Lake Recreation and Park District shall terminate and ownership shall vest entirely in the state. All costs associated with the transfer of the property shall be reimbursed by the Cuyamaca Lake Recreation and Park District.

(b) For purposes of Article 4 (commencing with Section 2090) of Chapter 1.5 of Division 3 of the Fish and Game Code, the Cuyamaca Lake Recreation and Park District shall serve as a state lead agency with respect to any property conveyed to it pursuant to this act.

CHAPTER 1447

An act to amend Sections 17705.5 and 39248 of the Education Code, relating to school facilities.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 17705.5 of the Education Code is amended to read:

17705.5. (a) The total building cost portion of any state funding for any project approved under this chapter for the new construction or rehabilitation of one or more school facilities shall be reduced by the amount of the local matching share requirement computed under subdivision (b).

(b) Each school district to which funds are allocated pursuant to this chapter for the new construction or rehabilitation of one or more school facilities shall provide, as its share of the cost of the project, an amount equal to the following:

(1) The product of the applicable maximum fee set forth in subdivision (b) of Section 65995 of the Government Code times the number of square feet of new residential, commercial, and industrial construction, as appropriate, for which building permits are issued within the boundaries of the school district from the date on which the board approves the district's application for project funding under this chapter to the date upon which the notice of completion for the project is issued, except that this period shall not exceed the time reasonably necessary for the final apportionment to be issued where the district meets its obligations as an applicant under this chapter. This amount is reduced by the sum of the following:

(A) Any amounts expended by the district during the described period of time for the acquisition of interim classroom facilities pursuant to Chapter 4.7 (commencing with Section 65970) of Division 1 of Title 7 of the Government Code from the proceeds of the fee levied by the district during that period. This amount is limited to the acquisition of interim classroom facilities necessary to temporarily house that number of pupils calculated, under state pupil loading standards, by subtracting the average daily attendance of the district based on a three-year enrollment projection from the average daily attendance of the district based on a five-year enrollment project. Enrollment projections for this purpose shall be made in accordance with this chapter.

(B) Any amounts expended by the district during the described period of time for the local matching share of any project funded under this chapter from the proceeds of the fee levied by the district during that period.

(C) An amount reflecting the extent to which the district is

precluded from collecting those fees by reason of the levy and collection of developer fees by another school district having common territorial jurisdiction.

(c) For purposes of establishing an estimate of the state project costs pursuant to subdivision (a), the board may estimate the local matching share by using the product of the annual average of the amount that would have resulted from the application of the maximum fee to the square footage of all new construction within the district over the three calendar years preceding the district's project application times the number of years over which the board estimates the fee will be collected by the district pursuant to the project to be funded.

(d) Only those project applications for which, prior to January 1, 1987, the board had made the apportionment for site acquisition and working drawings or the final apportionment for construction of the project shall be subject to the provisions of this chapter in effect prior to that date.

(e) The board may provide a loan to any applicant district in an amount equal to all or a part of the district's obligation under subdivision (b), subject to the requirement that the district pay each month to the board, as reimbursement, an amount equal to the proceeds that would be received by the district from the imposition of the fee described under subdivision (b) until the total amount of the loan has been repaid, together with interest computed pursuant to Section 16065.

(f) The board may make the loan specified in subdivision (e) from any funds available from any source, including, but not limited to, those amounts made available pursuant to Section 16065.

(g) All loan and interest amounts paid to the state pursuant to this section shall be available for the use of the board in the funding of projects as otherwise provided under this chapter, including, but not limited to, additional loans.

(h) This section shall remain in effect only until such date as any state general obligation bond measure submitted to the voters of this state for their ratification, which measure includes within its purposes the funding of school facilities construction, fails to receive that ratification, and as of that date is repealed.

SEC. 2. Section 39248 of the Education Code is amended to read:

39248. Any lease contract or agreement entered into pursuant to Section 39246 shall be subject to the following conditions:

(a) A leased relocatable structure in which pupils are expected to enter and that is to be used for school purposes for a total time in excess of three years shall be subject to the provisions of Article 3 (commencing with Section 39140) and Article 6 (commencing with Section 39210).

(b) Subdivision (a) shall not apply to manufactured homes used for classrooms or laboratories if those manufactured homes conform to the requirements of Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code, and the rules and

regulations promulgated thereunder concerning manufactured homes, are not expanded or fitted together with other sections to form one unit greater than 24 feet in width, are used for special educational purposes, and are used by not more than 12 pupils at a time, except that these manufactured homes may be used by not more than 20 pupils at a time for driver training purposes. Any manufactured home complying with this subdivision that is to be used as a classroom or laboratory shall be installed either on a foundation system or with an earthquake resistant bracing system certified by the Department of Housing and Community Development.

(c) The site on which a leased relocatable structure is located shall be owned by the school district, or shall be under the control of the school district pursuant to a lease or a permit.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1448

An act to add Sections 337 and 728 to the Business and Professions Code, relating to psychotherapists.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 337 is added to the Business and Professions Code, to read:

337. (a) The department shall prepare and disseminate an informational brochure for victims of psychotherapist-patient sexual contact and advocates for those victims. This brochure shall be developed by the department in consultation with members of the Sexual Assault Program of the Office of Criminal Justice Planning and the office of the Attorney General.

(b) The brochure shall include, but is not limited to, the following:

(1) A legal and an informal definition of psychotherapist-patient sexual contact.

(2) A brief description of common personal reactions and histories of victims and victim's families.

(3) A patient's bill of rights.

(4) Options for reporting psychotherapist-patient sexual relations and instructions for each reporting option.

(5) A full description of administrative, civil, and professional associations complaint procedures.

(6) A description of services available for support of victims.

(c) The brochure shall be provided to each individual contacting the Board of Medical Quality Assurance and their allied health boards or the Board of Behavioral Science Examiners regarding a complaint involving psychotherapist-patient sexual relations.

SEC. 2. Section 728 is added to the Business and Professions Code, to read:

728. (a) Any psychotherapist or employer of a psychotherapist who becomes aware through a patient that the patient had alleged sexual intercourse or alleged sexual contact with a previous psychotherapist during the course of a prior treatment, shall provide to the patient a brochure promulgated by the department which delineates the rights of, and remedies for, patients who have been involved sexually with their psychotherapist. Further, the psychotherapist or employer shall discuss with the patient the brochure prepared by the department.

(b) Failure to comply with this section constitutes unprofessional conduct.

(c) For the purpose of this section, the following definitions apply:

(1) "Psychotherapist" means a physician specializing in the practice of psychiatry or practicing psychotherapy, a psychologist, a clinical social worker, a marriage, family, and child counselor, a psychological assistant, marriage, family, and child counselor registered intern, or social worker apprentice.

(2) "Sexual contact" means the touching of an intimate part of another person.

(3) "Intimate part" and "touching" have the same meaning as defined in subdivision (d) of Section 243.4 of the Penal Code.

(4) "The course of a prior treatment" means the period of time during which a patient first commences treatment for services which a psychotherapist is authorized to provide under his or her scope of practice or which the psychotherapist represents to the patient as being within his or her scope of practice until such time as the psychotherapist-patient relationship is terminated.

CHAPTER 1449

An act to amend Sections 14510 and 14550 of, to add and repeal Section 14536.3 of, and to repeal and add Section 14533 of, the Public Resources Code, relating to beverage containers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 14510 of the Public Resources Code is amended to read:

14510. "Dealer" means every person in this state who engages in the sale of beverages in beverage containers to consumers. However, any lodging, eating, or drinking establishment, or soft drink vending machine operator who engages in the sale of beverages in beverage containers to consumers shall not be deemed a dealer for the purposes of this division, except that these sales are subject to Section 14560.

SEC. 2. Section 14533 of the Public Resources Code is repealed.

SEC. 3. Section 14533 is added to the Public Resources Code, to read:

14533. (a) The Legislature finds and declares that individuals may be appointed to the committee who are intended to represent and further the interest of the beverage industry, beverage container manufacturing industry, and other related industries, and that this representation and furtherance will ultimately serve the public interest. Accordingly, the Legislature finds that persons who are appointed to the committee and who represent these industries are tantamount to, and constitute, the public generally within the meaning of Section 87103 of the Government Code. The findings and declarations of this subdivision apply to subdivision (b).

(b) If the Fair Political Practices Commission determines that members of the committee are not subject to the requirements of Chapter 7 (commencing with Section 87100) of Title 9 of the Government Code, then each member shall do both of the following:

(1) File statements of economic interest with the department consistent with the dates and informational requirements required under Article 2 (commencing with Section 87200) of Chapter 7 of Title 9 of the Government Code.

(2) Not make, participate in making, or in any way attempt to use the members' official position to influence, a governmental decision in which the member knows, or has reason to know, the member has a financial interest.

(c) The definitions of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code) apply to subdivision (b).

SEC. 4. Section 14536.3 is added to the Public Resources Code, to read:

14536.3. (a) On or before June 30, 1988, the department shall review the regulations governing the labeling of beverage containers found in Subchapter 3 (commencing with Section 2500) of Chapter 5 of Division 2 of Title 14 of the California Administrative Code. In reviewing the regulations, the department shall include in the review, but not be limited to, an examination of both of the following:

(1) The use of embossing as a labeling technique, and its effectiveness in terms of its visibility to consumers, its effectiveness in promoting public awareness and participation in the beverage containers recycling and litter abatement program, and its visibility to persons sorting beverage containers at recycling centers.

(2) The need to specify a minimum type size for labels on beverage containers, and whether or not they are in contrasting colors, for purposes of making the recycling message visible to consumers and persons sorting beverage containers at recycling centers.

(b) 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 or is repealed.

SEC. 5. Section 14550 of the Public Resources Code, as amended by Chapter 240 of the Statutes of 1987, is amended to read:

14550. (a) Every processor shall report to the department for each month beginning October 1, 1987, the amount of empty beverage containers, by material type and weight of container or material, excluding refillable beverage containers, received from recycling centers for recycling, and the amount received not for recycling. Every processor shall also report to the department for each month the amount of other postfilled aluminum, glass, and plastic food and drink packaging materials sold filled to consumers in this state and returned for recycling. These reports shall be submitted within 10 days after each month, in the form and manner which the department may prescribe.

(b) Every distributor who sells or offers for sale in this state beverages in aluminum beverage containers, nonaluminum metal beverage containers, glass beverage containers, plastic beverage containers, or other beverage containers, including refillable beverage containers of these types, shall report to the department for each month beginning August 1, 1987, and for each month thereafter, the number of beverages sold in these beverage containers in this state which are labeled pursuant to Section 14561, by material type and size and weight of container or any other method as the department may prescribe. These reports shall be submitted by the day when payment is due, consistent with the applicable payment schedule specified in subdivision (a) or (b) of Section 14574, in the form and manner which the department may prescribe.

(c) Every distributor who sells or offers for sale in this state beverages in refillable beverage containers and who pays a refund value to distributors, dealers, or consumers who return these containers for refilling, shall report to the department for each month beginning August 1, 1987, and for each month thereafter, the number of these beverage containers returned empty to be refilled, by material type and size of container or any other method which the department may prescribe. These reports shall be submitted by the day when payment is due, consistent with the schedule specified in subdivision (a) of Section 14574, notwithstanding subdivision (b) of Section 14574, in the form and manner which the department may prescribe.

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

To ensure the timely implementation of the California Beverage Container Recycling and Litter Reduction Act, thereby protecting the public health and safety, it is necessary that this act take effect immediately.

CHAPTER 1450

An act to amend Section 14672.5 of the Government Code, to amend Sections 2910, 5085, 5086, 5087, 5088, 5089, 5091, and 5094 of, to amend the heading of Chapter 3.5 (commencing with Section 5085) of Title 7 of Part 3 of, and to add Sections 2910.5, 2910.6, and 2913 to, the Penal Code, to amend Section 20134 of, to add Article 12 (commencing with Section 10470) to Chapter 2 of Part 2 of Division 2 of, and to add Section 20168.5 to, the Public Contract Code, and to add Sections 1753.3 and 1753.4 to the Welfare and Institutions Code, relating to state government.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 14672.5 of the Government Code is amended to read:

14672.5. Notwithstanding Section 14670, the Director of General Services, with the consent of the Department of Corrections, may

lease to the City of Folsom a parcel of approximately five acres of unimproved real property situated in the County of Sacramento within Rancho Rio de Los Americanos for a period not to exceed 50 years for a police station, courthouse, or city hall.

SEC. 1.5. Section 2910 of the Penal Code is amended to read:

2910. (a) The Director of Corrections may enter into an agreement with a city, county, or city and county, to permit transfer of prisoners in the custody of the Director of Corrections to a jail or other adult correctional facility of the city, county, or city and county, if the sheriff or corresponding official having jurisdiction over the facility has consented thereto. The agreement shall provide for contributions to the city, county, or city and county toward payment of costs incurred with reference to such transferred prisoners.

(b) When an agreement entered into pursuant to subdivision (a) is in effect with respect to a particular local facility, the Director of Corrections may transfer prisoners whose terms of imprisonment have been fixed and parole violators to the facility.

(c) Prisoners so transferred to a local facility may, with approval of the Director of Corrections, participate in programs of the facility, including work furlough rehabilitation programs.

(d) Prisoners transferred to such facilities are subject to the rules and regulations of the facility in which they are confined, but remain under the legal custody of the Department of Corrections and shall be subject at any time, pursuant to the rules and regulations of the Director of Corrections, to be detained in the county jail upon the exercise of a state parole or correctional officer's peace officer powers as specified in Section 830.5, with the consent of the sheriff or corresponding official having jurisdiction over the facility.

(e) The Director of Corrections, to the extent possible, shall select city, county, or city and county facilities in areas where medical, food, and other support services are available from nearby existing prison facilities.

(f) The Director of Corrections, with the approval of the Department of General Services, may enter into an agreement to lease state property for a period not in excess of 20 years to be used as the site for a facility operated by a city, county, or city and county authorized by this section.

(g) No agreement may be entered into under this section unless the cost per inmate in the facility is no greater than the average costs of keeping an inmate in a comparable facility of the department, as determined by the director.

SEC. 2. Section 2910.5 is added to the Penal Code, to read:

2910.5. (a) Pursuant to Section 2910, the Director of Corrections may enter into a long-term agreement not to exceed 20 years with a city, county, or city and county to place parole violators in a facility which is specially designed and built for the incarceration of parole violators and state prison inmates.

(b) The agreement shall provide that persons providing security

at the facilities shall be peace officers who have completed the minimum standards for the training of local correctional peace officers established under Section 6035.

(c) No parole violator or other inmate may be confined in a facility established under this section if convicted of a violent felony as defined in subdivision (c) of Section 667.5 or if that person has a history of escape or attempted escape. No parole violator who receives a revocation sentence greater than eight months shall be confined in a facility established under this section. The department may establish additional guidelines as to inmates eligible for the facilities.

(d) In determining the reimbursement rate pursuant to an agreement entered into pursuant to subdivision (a), the director shall take into consideration the costs incurred by the city, county, or city and county for services and facilities provided, and any other factors which are necessary and appropriate to fix the obligations, responsibilities, and rights of the respective parties.

SEC. 2.5. Section 2910.6 is added to the Penal Code, to read:

2910.6. The Director of Corrections may enter into an agreement consistent with applicable law for a city, county, or city and county to construct and operate community corrections programs, restitution centers, halfway houses, work furlough programs, or other correctional programs authorized by state law.

SEC. 2.6. Section 2913 is added to the Penal Code, to read:

2913. A city shall give notice to, and consult with, the county prior to contracting with the state pursuant to Section 2910 of this code or Section 1753.3 of the Welfare and Institutions Code.

SEC. 3. The heading of Chapter 3.5 (commencing with Section 5085) of Title 7 of Part 3 of the Penal Code is amended to read:

CHAPTER 3.5. THE ROBERT PRESLEY INSTITUTE OF CORRECTIONS RESEARCH AND TRAINING

SEC. 4. Section 5085 of the Penal Code is amended to read:

5085. (a) There is hereby created in state government the Robert Presley Institute of Corrections Research and Training, hereafter referred to as "the institute" for the purposes of supporting research as provided by Section 5091, and enhancing education and training for corrections personnel within the youth and adult corrections system in California.

(b) The Legislature declares that the institute shall research and recommend short-term and long-term approaches to address the following:

(1) Evaluate the assumptions of our penal system including the prevention of violence, protection of public safety, safe, secure, and cost-effective incarceration, and the reintegration of offenders into society.

(2) Identify the methods and practices necessary for the most beneficial operation of the state's correctional institutions.

(3) Reduce prison, jail, and youth facility violence and recidivism rates.

(4) Ensure that California remains the nationwide leader in modern, humane, secure, and efficient correctional systems.

(5) Review current educational and training practices for correctional staff and recommend new curricula and training regimens intended to enhance the professionalism, expertise, and effectiveness of these personnel.

SEC. 4.5. Section 5086 of the Penal Code is amended to read:

5086. The institute shall be governed by a 17-member board of trustees, hereafter referred to as "the board," which shall consult with the governing body of the University of California, and the governing bodies of the California State University and the California community colleges. The institute shall also consult with the Governor and the Legislature on matters related to corrections research, education, and training.

SEC. 5. Section 5087 of the Penal Code is amended to read:

5087. The board shall be composed of 17 voting members. The members shall be selected from persons with experience or education in the fields of corrections, correctional training, criminal justice, criminal law, sociology, public health, architecture, urban planning, mental health, public protection, political science, psychology, or psychiatry. The Director of Corrections and the Director of the Youth Authority shall serve as ex officio voting members of the board. The Chairperson of the Board of the National Institute of Corrections or his or her designee, shall serve as an ex officio voting member of the board. The chancellor of the campus affiliated with the institute is authorized to serve as an ex officio voting member of the board.

SEC. 6. Section 5088 of the Penal Code is amended to read:

5088. The Governor shall appoint six members of the board, one of whom shall be designated by the Governor as chairperson. The Speaker of the Assembly and the Senate Rules Committee shall each appoint two members of the board. The Chancellors of the California State University and the California Community Colleges shall each appoint one member of the board. The President of the University of California is authorized to appoint one member of the board.

SEC. 6.5. Section 5089 of the Penal Code is amended to read:

5089. (a) In the event of a vacancy due to resignation, death, removal by the appointing authority pursuant to subdivision (b), or expiration of term of a appointed office, the appointing authority shall fill the vacancy following receipt of written notification from the board that a vacancy has occurred.

(b) Vacancies shall be filled by appointment for the unexpired term. The appointing authority may remove any member of the board disqualified by reason of neglect of any duty required by law, or for incompetency, or dishonorable conduct.

(c) The board shall meet regularly at least four times during each year with at least one meeting each year to be held in a geographic

location readily available to a large segment of the population of California. The board shall hold extra meetings as necessary on the call of the chairperson or a majority of the voting members of the board. Nine voting members of the board constitute a quorum. The vote of a majority of the voting members of the board is necessary for the transaction of the business of the board.

SEC. 7. Section 5091 of the Penal Code is amended to read:

5091. It is the intent of the Legislature that beginning January 1, 1987, the institute shall do all of the following:

(a) Finance research on issues of interest to state and local correctional agencies, universities, colleges, and other academic or corrections research institutions. The board shall receive and assign priority to research requests from correctional agencies, the Legislature and others. With respect to assigning priority to research requests, the board shall give preference to research tasks beyond the ordinary capability of in-house agency research divisions.

(b) Establish a clearinghouse for correctional information and research and disseminate material of interest, including the results of institute-financed research, to correctional practitioners, the Legislature, universities, colleges, courts, and the public.

(c) Sponsor seminars in which experts and theoreticians from various fields relevant to correctional practice may interact for the purpose of assisting the conduct of California corrections.

SEC. 8. Section 5094 of the Penal Code is amended to read:

5094. (a) It is the intent of the Legislature that funding for the institute's training, education, and research projects should be appropriated by the Legislature. The board is encouraged to seek additional funds from the state college and university systems, private colleges and universities, foundations, the federal government, and other sources deemed appropriate by the board.

(b) The executive director shall, subject to review and approval of the board, negotiate the terms, services, and costs of contracts and research projects consistent with funds available. The board shall approve contracts negotiated by the executive director and shall retain legal counsel for purposes of contract review.

(c) Consistent with the funds available, the executive director shall obtain all necessary office space, equipment, supplies, and services he or she deems necessary for the institute to perform its mandated duties.

SEC. 8.5. Article 12 (commencing with Section 10470) is added to Chapter 2 of Part 2 of Division 2 of the Public Contract Code, to read:

Article 12. Minority Business Participation

10470. As used in this article, the following definitions shall apply:

(a) "Awarding department" means any state agency, department, governmental entity, or other officer of an entity empowered by law to enter into contracts on behalf of the State of

California.

(b) "Contract" includes any agreement or joint development agreement to provide labor, services, materials, supplies, or equipment in the performance of a contract, franchise, concession, or lease granted, let, or awarded for and on behalf of the State of California.

(c) "Contractor" means any person or persons, firm, partnership, corporation, or combination thereof which submits a bid and enters into a contract with a representative of a state agency, department, governmental entity, or other officer empowered by law to enter into contracts on behalf of the State of California.

(d) "Goal" means a numerically expressed objective which awarding departments and contractors are required to make efforts to achieve.

(e) "Minority business enterprise" means a business concern which is all of the following:

(1) At least 51 percent owned by one or more minorities, or in the case of a publicly owned business, at least 51 percent of the stock of which is owned by one or more minorities.

(2) Managed by, and the daily business operations are controlled by, one or more minorities.

(3) A domestic corporation with its home office located in the United States.

(f) "Women business enterprise" means a business concern which is all of the following:

(1) At least 51 percent owned by a woman or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by one or more women.

(2) Managed by, and the daily business operations are controlled by, one or more women.

(3) A domestic corporation with its home office located in the United States.

10471. Notwithstanding any other provision of law, all contracts awarded pursuant to Section 2910 of the Penal Code or Section 1753.3 of the Welfare and Institutions Code by any state agency, department, officer, or governmental entity for construction, professional services, materials, supplies, equipment, alteration, repair, or improvement shall have statewide participation goals of not less than 15 percent for minority business enterprises, and not less than 5 percent for women business enterprises. These goals are also applicable to the overall dollar amount expended each year by the awarding department designated for those purposes.

10472. In awarding contracts to the lowest responsible bidder, the awarding department shall consider the responsiveness of a bidder to minority business enterprise and women business enterprise goals set forth in Section 10471. If a bidder fails to demonstrate a good faith effort in attaining these goals, the awarding department shall award the contract to the next lowest responsive and responsible bidder.

10473. (a) Each awarding department shall establish a method for monitoring compliance with the minority business enterprise and women business enterprise goals required in this article.

(b) Each awarding department shall adopt rules and regulations for purposes of implementing this article. Emergency regulations consistent with the requirements of this article may be adopted without the review and approval of the Office of Administrative Law if they are adopted within 90 days of the effective date of this article.

(c) In implementing the requirements of this article, the awarding department shall utilize existing resources such as the Office of Small and Minority Business, the Minority Business Development Agency, and the federal Small Business Administration.

10474. Commencing on January 1, 1989, and on January 1st of each year thereafter, each awarding department shall submit a report to the Legislature and the Governor on the level of participation by minority or women business enterprises in contracts identified in this article. If the established goals are not being met, the awarding department shall report the reasons for its inability to achieve these goals and shall identify remedial steps to be undertaken.

SEC. 9. Section 20134 of the Public Contract Code is amended to read:

20134. (a) In cases of great emergency, including, but not limited to, states of emergency described in Section 8558 of the Government Code, when repair or replacements are necessary to permit the continued conduct of county operations or services, or to avoid danger to life or property, the board of supervisors, by majority consent, may proceed at once to replace or repair any and all structures without adopting the plans, specifications, strain sheets, or working details or giving notice for bids to let contract. The work may be done by day labor under the direction of the board, by contract, or by a combination of the two. If the work is done wholly or in part by contract, the contractor shall be paid the actual cost of the use of machinery and tools and of material, and labor and of workers' compensation insurance expended by him or her in doing the work, plus not more than 15 percent to cover all profits and administration. No more than the lowest current market prices shall be paid for materials whenever possible.

(b) In a county of the first, second, or third class, which is under court order to relieve jail overcrowding or in which the sheriff certifies that the inmate capacity of the county jail system is exceeded by more than 20 percent and that the overpopulation is likely to continue and poses a threat to public safety, health, and welfare, the board of supervisors may contract for the construction or expansion of jail facilities without the formality of obtaining bids, adopting plans and specifications, or complying with other requirements of this article, except as required by this subdivision. The person to whom the contract is awarded shall execute a bond for

faithful performance in accordance with Section 20129. Any plans and specifications adopted by the board may only be altered or changed in accordance with Section 20135 and all contracts awarded pursuant to this subdivision may only be altered or changed in accordance with Sections 20136, 20137, and 20138. The award of the contract shall be made after a public hearing on the basis of a request for proposals advertised in accordance with Section 6062 or 6062a of the Government Code. The contract may be awarded only to a contractor who has responded to the request for proposals and who is licensed to do the work in accordance with Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code. The contract shall be upon terms which the board determines are necessary for the expeditious completion of the work. A contract shall not be entered into unless at least three proposals to do the work have been evaluated by a competitive process established by the board and the lowest bid is selected.

(c) In any county that has agreed to permit the transfer of prisoners or parole violators under Section 2910 or 2910.5 of the Penal Code or of wards under Section 1753.3 of the Welfare and Institutions Code, the board of supervisors may contract for the construction or expansion of the facilities to be used for that purpose without the formality of obtaining bids, adopting plans and specifications, or complying with other requirements of this article, except as required by this subdivision. The person to whom the contract is awarded shall execute a bond for faithful performance in accordance with Section 20129. Any plans and specifications adopted by the board may only be altered or changed in accordance with Section 20135 and all contracts awarded pursuant to this subdivision may only be altered or changed in accordance with Sections 20136, 20137, and 20138. The award of the contract shall be made after a public hearing on the basis of a request for proposals advertised in accordance with Section 6062 or 6062a of the Government Code. The contract may be awarded only to a contractor who has responded to the request for proposals and who is licensed to do the work in accordance with Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code. The contract shall be upon terms which the board determines are necessary for the expeditious completion of the work. A contract shall not be entered into unless at least three proposals to do the work have been evaluated by a competitive process established by the board and the lowest bid is selected.

(d) Proposed construction or expansion of jail or return-to-custody facilities as authorized under subdivision (b) or (c) shall not commence in a county of the third class without the affirmative vote of a majority of the city council of the incorporated city within which the construction or expansion is proposed.

(e) The board of supervisors may waive the requirements of Chapter 5 (commencing with Section 5100) of Part 1 of Division 2 of the Public Contract Code for work performed pursuant to

subdivision (a), (b), or (c).

SEC. 10. Section 20168.5 is added to the Public Contract Code, to read:

20168.5. In any city that has agreed to permit the transfer of prisoners or parole violators under Section 2910 or 2910.5 of the Penal Code, or of wards under Section 1753.3 of the Welfare and Institutions Code, the city council may contract for the construction or expansion of facilities to be used for that purpose without the formality of obtaining bids, adopting plans and specifications, or complying with other requirements of this article, except as required by this section. The person to whom the contract is awarded shall execute a bond for faithful performance. The award of the contract shall be made after a public hearing on the basis of a request for proposals advertised in accordance with Section 6062 or 6062a of the Government Code. The contract may be awarded only to a contractor who has responded to the request for proposals and who is licensed to do the work in accordance with Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code. The contract shall be upon terms which the city council determines are necessary for the expeditious completion of the work. A contract shall not be entered into unless at least three proposals to do the work have been evaluated by a competitive process established by the city council and the lowest bid is selected.

SEC. 11. Section 1753.3 is added to the Welfare and Institutions Code, to read:

1753.3. (a) The Director of the Youth Authority may enter into an agreement with a city, county, or city and county, to permit transfer of wards in the custody of the Director of the Youth Authority to an appropriate facility of the city, county, or city and county, if the official having jurisdiction over the facility has consented. The agreement shall provide for contributions to the city, county, or city and county toward payment of costs incurred with reference to the transferred wards.

(b) When an agreement entered into pursuant to subdivision (a) is in effect with respect to a particular local facility, the Director of the Youth Authority may transfer wards and parole violators to the facility.

(c) Notwithstanding subdivision (b), the Youthful Offender Parole Board may deny placement in a local facility to a parole violator who was committed to the Youth Authority for the commission of any offense set forth in subdivision (b) of Section 707.

(d) Wards so transferred to a local facility may, with approval of the Director of the Youth Authority, participate in programs of the facility, including work furlough rehabilitation programs.

(e) Wards transferred to those facilities are subject to the rules and regulations of the facility in which they are confined, but remain under the legal custody of the Department of the Youth Authority.

SEC. 12. Section 1753.4 is added to the Welfare and Institutions Code, to read:

1753.4. (a) Pursuant to Section 1753.3 the Director of the Youth Authority may enter into a long-term agreement not to exceed 20 years with a city, county, or city and county to place parole violators in a facility which is specially designed and built for the incarceration of parole violators and state youth authority wards.

(b) The agreement shall provide that persons providing security at the facilities shall be peace officers who have completed the minimum standards for the training of local correctional peace officers established under Section 6035 of the Penal Code.

(c) In determining the reimbursement rate pursuant to an agreement entered into pursuant to subdivision (a), the director shall take into consideration the costs incurred by the city, county, or city and county for services and facilities provided, and any other factors which are necessary and appropriate to fix the obligations, responsibilities, and rights of the respective parties.

(d) The Director of the Youth Authority, to the extent possible, shall select city, county, or city and county facilities in areas where medical, food, and other support services are available from nearby existing prison facilities.

(e) The Director of the Youth Authority, with the approval of the Department of General Services, may enter into an agreement to lease state property for a period not in excess of 20 years to be used as the site for a facility operated by a city, county, or city and county authorized by this section.

(f) No agreement may be entered into under this section unless the cost per ward in the facility is no greater than the average costs of keeping a ward in a comparable Youth Authority facility, as determined by the Director of the Youth Authority.

SEC. 12.5. (a) The Legislative Analyst shall report to the Legislature on the cost effectiveness of the program authorized by this act no later than March 1, 1991.

The report shall include all of the following:

(1) The cost effectiveness of the program, including a comparison of the costs for inmates and wards in state facilities, in facilities operated by local agencies, and in facilities operated by private vendors. If possible, a comparison of daily, monthly, and yearly costs shall be be included.

(2) The impact on prison overcrowding.

(3) The impact on local communities.

(4) If possible, a comparison of recidivism rates between persons in state facilities, locally operated facilities, and privately operated facilities.

(b) A copy of the report shall be provided to the Joint Legislative Committee on Prison Construction and Operation, the budget and finance committees of each house of the Legislature, the Governor, the Department of Corrections, the Department of the Youth Authority, and the Auditor General.

(c) Within 30 days of the issuance of the final report by the Legislative Analyst, the Joint Legislative Committee on Prison

Construction and Operation shall hold a hearing on the report. Within 30 days of the conclusion of the hearing the committee shall issue a report on its findings and recommendations and whether it concludes that the program authorized by this act shall be continued and extended. Within 30 days of the issuance of the report by the committee, the Department of Corrections and the Youth Authority shall issue a report outlining future plans for using these types of facilities. During the 90 days after the issuance of the report by the Legislative Analyst, neither the Department of Corrections or the Department of the Youth Authority shall enter into a new contract or extend an existing contract for the types of facilities authorized by this act.

(d) In addition to the report required by subdivision (a), the Legislative Analyst shall issue interim reports on March 31, 1989, and March 31, 1990.

SEC. 13. If any provisions of this act or the application thereof to any person or circumstances is held invalid, this invalidity shall not affect any other provisions or application of the act which can be given effect without the invalid provisions or applications and, to this end, the provisions of this act are severable.

CHAPTER 1451

An act to add Sections 8589.1 and 8589.2 to the Government Code, relating to emergencies, and making an appropriation therefor.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 8589.1 is added to the Government Code, to read:

8589.1. (a) The Office of Emergency Services shall plan to establish the State Computer Emergency Data Exchange Program (SCEDEP) which shall be responsible for collection and dissemination of essential data for emergency management.

(b) Participating agencies in SCEDEP shall include the Department of Water Resources, Department of Forestry and Fire Protection, Department of the California Highway Patrol, Department of Transportation, Emergency Medical Services Agency, the State Fire Marshal, and any other state agency which collects critical data and information which affects emergency response.

(c) It is the intent of the Legislature that the State Computer Emergency Data Exchange Program facilitate communication between state agencies and that emergency information be readily accessible to city and county emergency services offices. The Office

of Emergency Services shall develop policies and procedures governing the collection and dissemination of emergency information and shall recommend or design the appropriate software and programs necessary for emergency communications with city and county emergency services offices.

SEC. 2. Section 8589.2 is added to the Government Code, to read:

8589.2. (a) The State Computer Emergency Data Exchange Program Task Force is hereby created to assess the computer systems and data centers available to state agencies which have emergency response and management roles. The task force shall make recommendations, including cost estimates, data to be collected, alternatives for providing computer resources, and a time schedule for implementing the State Computer Emergency Data Exchange Program in the 1988–89 fiscal year.

(b) The task force shall consist of no more than two representatives of each state agency determined pursuant to subdivision (b) of Section 8589.1 who are knowledgeable about the agency's role in emergency management and the agency's emergency data system. The task force shall select one representative of county emergency services offices and one representative of city emergency services offices who shall be included on the task force. The task force may include nonvoting technical staff or procure the services of technical consultants. The task force shall be chaired by at least an assistant director of the Office of Emergency Services.

(c) The task force shall complete its report with specific recommendations by August 31, 1988. The Director of the Office of Emergency Services shall receive the report of the task force and take the appropriate actions to implement its recommendations.

SEC. 3. Notwithstanding Section 8690.6 of the Government Code and Section 6 of Chapter 16 of the Statutes of 1986, one hundred twenty-five thousand dollars ($125,000) is hereby appropriated from the Disaster Response Emergency Operations Account in the Reserve for Economic Uncertainties to the Office of Emergency Services for the purpose of administering this act.

CHAPTER 1452

An act to amend Sections 1007, 1011, 1080, 1205, 1208, 1240, 1249, 4010, 8321, 8322, 10000, 10902, 12130, 14050, 14058, 18330, 18385, 18710, 18720, 18731, 18740, 18741, 18743, 18744, 18745, 18746, 18747, 18765, 19143, 19167, 19301, 19320, 19321, 19325, 19330, 19331, 19332, 19333, 19425, 19524, 19601, 19644, 19901, 22609, 33420, 35000, 35001, 35023, 35031, 35034, 35124, 35145, 35161, 35512, 35734, 37201, 39007, 39365.5, 39802, 39839, 39902, 41002, 41032, 41306, 41350, 41901, 41903, 42125, 42238.5, 42600, 42601, 42631, 42636, 42646, 42821, 44015, 44032, 44265, 44492, 44897, 44903.7, 44981, 45303, 46201, 46320, 46360, 48000, 48010,

48200, 48205, 48980, 51210, 51833, 52001, 52035, 52500, 52857, 54004.7, 54301, 54659, 56027, 56100, 56101, 56129, 56156, 56156.5, 56157, 56159, 56170, 56172, 56194, 56200, 56220, 56240, 56242, 56300, 56301, 56302, 56322, 56328, 56340, 56341, 56342, 56344, 56345, 56345.5, 56360, 56361.5, 56363.3, 56363.5, 56364.5, 56365, 56365.5, 56366, 56366.1, 56366.5, 56369, 56380, 56450, 56451, 56454, 56456, 56500, 56601, 56602, 56606, 56700, 56760, 56761, 56824, 56825, 56826, 56851, 60241, 60242.5, 60246, 60285, 60660, and 60690 of, to amend the heading of Article 10 (commencing with Section 39480) of Chapter 3 of Part 23 of, to amend and renumber Sections 8480, 8481, 8482, 8483, 8485, 8486, 8490, 8491, 8492, 35104, 37227.6, 37228, 39118, 39119, 40005, 42637.5, 44882, 44883, and 48012 of, to add Sections 1278, 33319.5, 35160.1, 39304.5, 41002.5, 46307, 46307.1, and 51204.5 to, to add Article 2.7 (commencing with Section 44929.20) to Chapter 4 of Part 25 of, to add Chapter 10 (commencing with Section 49600) to Part 27 of, to repeal Sections 88, 1209, 1210, 1211, 1212, 1213, 1241, 1242, 1247, 1248, 1257, 1264, 1265, 1291, 1624, 1925, 1930, 1931, 2001, 2500, 2500.1, 2500.3, 2502, 2503, 2504, 2506, 2506.1, 2506.5, 2506.7, 2507, 2507.5, 2507.7, 2508, 2510, 2559, 5001, 5015, 5015.5, 5032, 5226, 5305, 5364, 5444, 8323, 8325, 10002, 10010, 10915, 14002.1, 14051, 14053, 16030, 16071, 18331, 18332, 18334, 18512, 18514, 18516, 18517, 18721, 18748, 18752, 19144, 19304, 19305, 19523, 19602, 19606, 19607, 19609, 19800, 23500, 23502, 23503, 23504, 23507, 23508, 23509, 23513, 23514, 23515, 23516, 23517, 23518, 23519, 23520, 23521, 23522, 23523, 23524, 23525, 23527, 23600, 23601, 23602, 23603, 23604, 23605, 23606, 23607, 23608, 23609, 23610, 23611, 23612, 23613, 23616, 24006, 24101, 35002, 35027, 35036, 35037, 35040, 35042, 35043, 35122, 35123, 35125, 35147, 35148, 35169, 35173, 35176, 35209, 35210, 35212, 35270, 35273, 35274, 35276, 35340, 37000.5, 37001, 37002, 37003, 37004, 37005, 37006, 37007, 37008, 37060, 37061, 37062, 37065, 37073, 37074, 37075, 37076, 37077, 37078, 37079, 37084, 37087, 37088, 37203, 37222, 37223, 37224, 37225, 37226, 37227, 37227.5, 37229, 37230, 37231, 37232, 37250, 37430, 39001, 39003, 39004, 39009, 39010, 39011, 39117, 39121, 39122, 39123, 39124, 39230.5, 39362, 39365, 39373, 39482, 39483, 39484, 39491, 39600, 39642, 39645, 39651, 39659, 39840.5, 40004, 40010, 40012, 40013, 41301.3, 41302, 41331, 41351, 41377, 41760, 42237.7, 42237.9, 42241, 42243.5, 42244.7, 42660, 42834, 44013, 44804, 44841, 44880, 44882, 44883, 44884, 44885, 44885.5, 44886, 44887, 44889, 44890, 44891, 44978.5, 45021, 45026, 45027, 45053, 45054, 45133, 46013.9, 46116, 46143, 46180.1, 46361, 46362, 46363, 46365, 46366, 46367, 48001, 48013, 48020, 48030, 48040, 48227, 48228, 48229, 48810, 49401, 49404, 49420, 49421, 49453, 49502, 51001, 51201, 51211, 51213, 51227, 51700, 51701, 51710, 51830, 51831, 51832, 52043, 52380, 52463, 54030, 54424, 54487, 56032, 60314, 60315, 60640, 60641, 60642, 60643, 60664, and 63002 of, to repeal the heading of Article 11 (commencing with Section 39490) of Chapter 3 of Part 23 of, to repeal Article 5 (commencing with Section 1110) of Chapter 2 of Part 2 of, Article 11 (commencing with Section 35300) of Chapter 2 of Part 21 of, Article 2 (commencing with Section 37020) of, Article 3 (commencing with Section 37040) of, Article 4 (commencing with Section 37050) of, and Article 6 (commencing

with Section 37100) of, Chapter 1 of, Article 2 (commencing with Section 37210) of Chapter 2 of, and Article 2 (commencing with Section 37410) of Chapter 3 of, Part 22 of, Article 7 (commencing with Section 39240) of Chapter 2 of, Article 8 (commencing with Section 39440) of, Article 12 (commencing with Section 39500) of, and Article 16 (commencing with Section 39560) of, Chapter 3 of, and Article 3.5 (commencing with Section 39660) of Chapter 4 of, Part 23 of, Article 1 (commencing with Section 41700) of, Article 2 (commencing with Section 41730) of, Article 3 (commencing with Section 41750) of, and Article 7 (commencing with Section 41810) of, Chapter 5 of, Article 1 (commencing with Section 42200) of Chapter 7 of, and Article 3.5 (commencing with Section 42625) of Chapter 9 of, Part 24 of, Chapter 4 (commencing with Section 46500) of Part 26 of, and Article 3 (commencing with Section 48650) of Chapter 4 of, and Article 3 (commencing with Section 49440) of Chapter 9 of, Part 27 of, to repeal Chapter 9 (commencing with Section 2200) of Part 2 of, Chapter 4 (commencing with Section 10300) of Part 7 of, Chapter 14 (commencing with Section 23300) of Part 13 of, Chapter 2 (commencing with Section 41200) of, Chapter 5.5 (commencing with Section 42000) of, Chapter 5.7 (commencing with Section 42050) of, Chapter 8 (commencing with Section 42400) of, Chapter 8.5 (commencing with Section 42501) of, and Chapter 8.7 (commencing with Section 42521) of, Part 24 of, and to repeal and add Sections 37060, 37220 and 37221 of, and to repeal and add Article 2 (commencing with Section 35010) of Chapter 1 of Part 21 of, and Article 8.5 (commencing with Section 41835) of Chapter 5 of Part 24 of, the Education Code, to add Part 4 (commencing with Section 24000) to Division 14 of the Elections Code, to amend Sections 20330 and 53853 of the Government Code, to add Sections 20117, 20118, 20118.1, 20118.3, and 20118.4 to, and to add and repeal Section 20118.2 of, the Public Contract Code, to add Section 21151.2 to the Public Resources Code, and to add Article 28 (commencing with Section 960) to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, relating to education.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. The Legislature finds and declares that, in 1972, the people of the state adopted an amendment to Section 14 of Article IX of the California Constitution, which permits the Legislature to authorize the governing boards of school districts to initiate and carry on any programs, activities, or to otherwise act in any manner which is not in conflict with the laws and purposes for which school districts are established.

It is the intent of the Legislature, in enacting this act, to implement more fully, for the school districts, county boards of education, and

the county offices of education in California, the intent of the people in adopting the amendment of Section 14 of Article IX of the California Constitution. The Legislature further finds and declares that, in order to do so, it is necessary to amend or repeal many provisions of the Education Code.

Whenever in this act a power, authorization, or duty of a school district governing board, county board of education, or county office of education, is repealed or otherwise deleted by amendment, it is not the intent of the Legislature to prohibit the board or office from acting as prescribed by the deleted provisions. Rather, it is the intent of the Legislature, that the school district governing boards, county boards of education, and county superintendents of schools, respectively, shall have the power, in the absence of other legislation, to so act under the general authority of Section 35160 of the Education Code.

SEC. 2. Section 88 of the Education Code is repealed.

SEC. 3. Section 1007 of the Education Code is amended to read:

1007. (a) Members of the county board of education shall be elected on the date and in the manner prescribed for the election of members of governing boards of school districts, provided the elections are held throughout the county on the same date; otherwise the election shall be consolidated with the direct primary election. Once established, no subsequent change of circumstances shall require that the time of holding the election be changed. Where the elections for governing board members are held on the same date, then the provisions of Section 5303 shall apply to the election of members of the county board of education. Elections held pursuant to this article shall be conducted by the county board of education. Members elected at the time of the direct primary shall take office on the first day of July, and members elected at the date on which members of school district governing boards are elected shall take office on the last Friday in November subsequent to their election. The county committee on school district organization shall determine the manner in which the county board of education first elected shall effect a staggering of terms.

(b) This section shall govern the election and term of office of members of a county board of education except as provided under Section 5000.5.

SEC. 4. Section 1011 of the Education Code is amended to read:

1011. Regular meetings of the board shall be held at times it may determine, but not less than once per month and shall be conducted in accordance with Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code.

SEC. 5. Section 1080 of the Education Code is amended to read:

1080. The county board of supervisors, by resolution, may transfer all of the following duties and functions of the county board of supervisors to the county board of education:

(a) Approval of the county superintendent's estimate of anticipated revenue and expenditures pursuant to Section 1042

following which it shall be filed with the county board of supervisors.

(b) Allowance of the actual and necessary travel expenses, the expenses of the office of the county superintendent of schools, and the expenses of providing housing for all the services of the county superintendent of schools pursuant to Sections 1200, 1201, 1202, and 1203.

(c) By agreement with the county board of education, any other duties and functions of an educational, or educational and recreational, nature which by law are required or permitted to be performed by the county board of supervisors.

(d) By agreement with the county board of education, the community recreation functions authorized by Chapter 10 (commencing with Section 10900) of Part 7 of this division.

The transfer of duties and functions under the provisions of this article shall not alter the requirement that the expenses for those duties and functions be paid out of the county general fund as provided elsewhere in this code, provided however that the county board of supervisors and the county board of education may agree that all or any portion of the expenses for those duties and functions that are by law required or permitted to be paid from the county general fund shall be included in that part of the single budget prepared by the county board of education for which a county tax is levied pursuant to Section 1623.

SEC. 6. Article 5 (commencing with Section 1110) of Chapter 2 of Part 2 of the Education Code is repealed.

SEC. 7. Section 1205 of the Education Code is amended to read:

1205. For the purposes of prescribing the qualifications required of county superintendents of schools the counties are classified on the basis of the average daily attendance in the public schools as follows:

Class one (1) includes all counties with an average daily attendance of seven hundred fifty thousand (750,000) and over.

Class two (2) includes all counties with an average daily attendance of one hundred forty thousand (140,000) to seven hundred forty-nine thousand nine hundred ninety-nine (749,999), inclusive.

Class three (3) includes all counties with an average daily attendance of sixty thousand (60,000) to one hundred thirty-nine thousand nine hundred ninety-nine (139,999), inclusive.

Class four (4) includes all counties with an average daily attendance of thirty thousand (30,000) to fifty-nine thousand nine hundred ninety-nine (59,999), inclusive.

Class five (5) includes all counties with an average daily attendance of fifteen thousand (15,000) to twenty-nine thousand nine hundred ninety-nine (29,999), inclusive.

Class six (6) includes all counties with an average daily attendance of seven thousand (7,000) to fourteen thousand nine hundred ninety-nine (14,999), inclusive.

Class seven (7) includes all counties with an average daily attendance of one thousand (1,000) to six thousand nine hundred

ninety-nine (6,999), inclusive.

Class eight (8) includes all counties with an average daily attendance of under one thousand (1,000).

SEC. 8. Section 1208 of the Education Code is amended to read:

1208. (a) All county superintendents of schools in counties within classes (1) to (8), inclusive, shall possess a valid certification document authorizing administrative services.

(b) For purposes of this section, the possession of a valid elementary administrative credential and a valid secondary administrative credential are equivalent to the possession of a valid general administrative credential.

SEC. 9. Section 1209 of the Education Code is repealed.

SEC. 10. Section 1210 of the Education Code is repealed.

SEC. 11. Section 1211 of the Education Code is repealed.

SEC. 12. Section 1212 of the Education Code is repealed.

SEC. 13. Section 1213 of the Education Code is repealed.

SEC. 14. Section 1240 of the Education Code is amended to read:

1240. The superintendent of schools of each county shall:

(a) Superintend the schools of his or her county.

(b) Visit and examine each school in his or her county at reasonable intervals to observe their operation and to learn of their problems. He or she may annually present a report of the state of the schools in his or her county, and of his or her office, including, but not limited to, his or her observations while visiting the schools, to the board of education and the board of supervisors of his or her county.

(c) Distribute all laws, reports, circulars, instructions, and blanks that he or she may receive for the use of the school officers.

(d) Keep in his or her office the reports of the Superintendent of Public Instruction, and the Board of Governors of the California Community Colleges.

(e) Keep a record of his or her official acts, and of all the proceedings of the county board of education, including a record of the standing, in each study, of all applicants for certificates who have been examined, which shall be open to the inspection of any applicant or his or her authorized agent.

(f) Enforce the course of study.

(g) Enforce the use of state textbooks and of high school textbooks regularly adopted by the proper authority.

(h) Preserve carefully all reports of school officers and teachers.

(i) Deliver to his or her successor, at the close of his or her official term, all records, books, documents, and papers belonging to the office, taking a receipt for them, which shall be filed with the State Department of Education.

(j) Submit two reports during the fiscal year to the county board of education. The first report shall cover the financial and budgetary status of the county office of education for the period ending no earlier than October 31 nor later than December 31. The second report shall cover the period ending March 31. Both reports shall be

reviewed by the county board of education and approved by the county superintendent no later than 45 days after the close of the period being reported. As part of each report, the superintendent shall certify in writing whether or not the county office of education is able to meet its financial obligations for the remainder of the fiscal year. The certifications shall be classified as positive, qualified, or negative, as prescribed by the Superintendent of Public Instruction, for the purposes of determining subsequent state agency actions pursuant to Section 1241.1. Copies of each report in which the superintendent is unable to certify unqualifiedly that these financial obligations will be met shall be sent to the Controller and the Superintendent of Public Instruction at the time it is submitted to the county board of education, together with a completed transmittal form provided by the Controller.

Each report shall specify outstanding obligations of the county office of education and significant budgetary and financial conditions known to exist at the time of certification by the superintendent. Each report shall be based upon the financial and budgetary reports normally submitted by county superintendents of schools as required by Section 1245 and other statutory provisions.

This subdivision does not preclude the submission of additional budgetary or financial reports by the superintendent to the county board of education or the Superintendent of Public Instruction.

(k) When so requested, act as agent for the purchase of supplies for the city and high school districts of his or her county.

SEC. 15. Section 1241 of the Education Code is repealed.

SEC. 16. Section 1242 of the Education Code is repealed.

SEC. 17. Section 1247 of the Education Code is repealed.

SEC. 18. Section 1248 of the Education Code is repealed.

SEC. 19. Section 1249 of the Education Code is amended to read:

1249. (a) The county superintendent of schools may sell publications that he or she produces.

(b) The county superintendent of schools, with the approval of the county board of education, may fix the price, not to exceed the estimated cost of production, for the sale of any publication produced by him or her.

(c) All moneys received from the sale of publications produced by the county superintendent of schools shall be deposited to the credit of the fund against which the cost of printing the publication was charged.

(d) This section does not authorize a county superintendent of schools to prepare or publish written materials, the preparation or publication of which is not otherwise authorized by law.

SEC. 20. Section 1257 of the Education Code is repealed.

SEC. 21. Section 1264 of the Education Code is repealed.

SEC. 22. Section 1265 of the Education Code is repealed.

SEC. 23. Section 1278 is added to the Education Code, to read:

1278. The superintendent of schools of each county may conduct teacher institutes on behalf of the school districts in the county.

SEC. 24. Section 1291 of the Education Code is repealed.
SEC. 25. Section 1624 of the Education Code is repealed.
SEC. 26. Section 1925 of the Education Code is repealed.
SEC. 27. Section 1930 of the Education Code is repealed.
SEC. 28. Section 1931 of the Education Code is repealed.
SEC. 29. Section 2001 of the Education Code is repealed.
SEC. 30. Chapter 9 (commencing with Section 2200) of Part 2 of the Education Code is repealed.
SEC. 31. Section 2500 of the Education Code is repealed.
SEC. 32. Section 2500.1 of the Education Code is repealed.
SEC. 33. Section 2500.3 of the Education Code is repealed.
SEC. 34. Section 2502 of the Education Code is repealed.
SEC. 35. Section 2503 of the Education Code is repealed.
SEC. 36. Section 2504 of the Education Code is repealed.
SEC. 37. Section 2506 of the Education Code is repealed.
SEC. 38. Section 2506.1 of the Education Code is repealed.
SEC. 39. Section 2506.5 of the Education Code is repealed.
SEC. 40. Section 2506.7 of the Education Code is repealed.
SEC. 41. Section 2507 of the Education Code is repealed.
SEC. 42. Section 2507.5 of the Education Code is repealed.
SEC. 43. Section 2507.7 of the Education Code is repealed.
SEC. 44. Section 2508 of the Education Code is repealed.
SEC. 45. Section 2510 of the Education Code is repealed.
SEC. 46. Section 2559 of the Education Code is repealed.
SEC. 47. Section 4010 of the Education Code is amended to read:
4010. The members of the county committee shall serve without compensation. However, they shall receive reimbursement for any actual and necessary travel expenses incurred in the performance of their duties.
SEC. 48. Section 5001 of the Education Code is repealed.
SEC. 49. Section 5015 of the Education Code is repealed.
SEC. 50. Section 5015.5 of the Education Code is repealed.
SEC. 51. Section 5032 of the Education Code is repealed.
SEC. 52. Section 5226 of the Education Code is repealed.
SEC. 53. Section 5305 of the Education Code is repealed.
SEC. 54. Section 5364 of the Education Code is repealed.
SEC. 55. Section 5444 of the Education Code is repealed.
SEC. 56. Section 8321 of the Education Code is amended to read:
8321. The county superintendent of schools in each county, with the approval of the county board of education and the Superintendent of Public Instruction, shall have the authority to establish and maintain child development programs and centers in the same manner and to the same extent as governing boards of school or community college districts, except that nothing in this section shall be construed as vesting in the county superintendents of schools any authority to alone effect the levy and collection of any county, school, or other local taxes for the support of any child development programs and centers.
The establishment and maintenance of any child development

program and center by the county superintendent of schools shall be undertaken, subject to the prior approval of both the county board of education and the Superintendent of Public Instruction, upon the application of one or more school districts under his or her jurisdiction.

SEC. 57. Section 8322 of the Education Code is amended to read:

8322. The governing board of any school district or community college district or the county superintendent of schools may do the following:

(a) Accommodate in a child development facility maintained by it children residing in another district, upon terms and under conditions agreed upon by the governing boards of both districts.

(b) Permit the use of, and furnish maintenance for, buildings, grounds, and equipment, and the use of existing administrative personnel for the purposes of this chapter.

(c) Adopt reasonable rules and regulations governing the child development services or facilities maintained by it that are not in conflict with law or the standards and regulations established for child development services by the Superintendent of Public Instruction.

SEC. 58. Section 8323 of the Education Code is repealed.

SEC. 59. Section 8325 of the Education Code is repealed.

SEC. 60. Section 8480 of the Education Code, as added by Chapter 1026 of the Statutes of 1985, is amended and renumbered to read:

8475. Programs funded pursuant to this article shall be deemed to be child day care facilities, as defined under Section 1596.750 of the Health and Safety Code, and subject to the California Child Day Care Act set forth in Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code. A program may be exempted from any administrative regulation promulgated pursuant to the California Child Day Care Act by the Superintendent of Public Instruction for the sole purpose of qualification for funding, upon the determination by the superintendent that good cause exists for the exemption, that the purposes of this article will be so furthered, and that the exemption will not result in a dangerous or life-threatening situation.

SEC. 61. Section 8480 of the Education Code, as added by Chapter 1440 of the Statutes of 1985, is amended and renumbered to read:

8486. 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.

SEC. 62. Section 8481 of the Education Code, as added by Chapter 1026 of the Statutes of 1985, is amended and renumbered to read:

8476. In order to maximize program flexibility and cost effectiveness and to foster innovation and creativity, the

Superintendent of Public Instruction may exempt from any administrative requirements established under this article any programs that are recreational in nature and contain no instructional components.

SEC. 63. Section 8481 of the Education Code, as added by Chapter 1440 of the Statutes of 1985, is amended and renumbered to read:

8487. 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.

SEC. 64. Section 8482 of the Education Code, as added by Chapter 1440 of the Statutes of 1985, is amended and renumbered to read:

8488. 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.

SEC. 65. Section 8483 of the Education Code, as added by Chapter 1440 of the Statutes of 1985, is amended and renumbered to read:

8489. Each school that 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. 66. Section 8485 of the Education Code is amended and

renumbered to read:

8477. (a) It is the intent of the Legislature that funds be appropriated for the state purchase of relocatable child care and development facilities for the purpose of providing extended day care services pursuant to this article, for lease to qualifying contracting agencies in geographic areas with no available child care and development facilities. A fund is hereby created in the State Treasury, to be known as the State Child Care Facilities Fund. All moneys in the State Child Care Facilities Fund, including any moneys deposited in that fund from any source whatsoever, are hereby continuously appropriated without regard to fiscal year for expenditure pursuant to this article. The State Allocation Board may authorize the expenditure of any moneys in the State Child Care Facilities Fund for capital outlay projects pursuant to the provisions of this article.

(b) No relocatable child care and development facility owned by the state shall be placed on privately owned land except in those areas of the state where the Superintendent of Public Instruction determines there is no available space on publicly owned land and where there are no available child care and development facilities.

(c) The Superintendent of Public Instruction shall establish the qualifications to determine the eligibility of extended day care contracting agencies to lease relocatable facilities under this section.

(d) The Superintendent of Public Instruction shall adopt rules establishing priorities for the acquisition and leasing of facilities to contracting agencies that will most benefit children needing extended day care services. First priority shall be given to programs that are operated in school districts that have unhoused pupils, as determined under state standards established pursuant to Chapter 22 (commencing with Section 17700) of Part 10, and have developed a plan to provide extended day care services in a cost-effective manner. Each lessee shall be required to demonstrate that relocatable facilities are utilized solely for operation of extended day care services, and to comply with cost-effective minimum program standards established by the superintendent.

(e) The State Allocation Board, with the advice of the Superintendent of Public Instruction, may do all of the following:

(1) Establish any procedures and policies in connection with the administration of this section that it deems necessary.

(2) Adopt any rules and regulations for the administration of this section requiring those procedures, forms, and information that it deems necessary.

(3) Have constructed, furnished, equipped, or otherwise require whatever work is necessary to place relocatable extended day care services facilities where needed.

(f) The board shall lease relocatable facilities to qualifying extended day care services contracting agencies and shall charge rent of one dollar ($1) per year. The board shall require lessees to undertake all necessary maintenance, repairs, renewal, and

replacement to ensure that a project is at all times kept in good repair, working order, and condition. All costs incurred for this purpose shall be borne by the lessee.

(g) The board shall require lessees to insure at their own expense for the benefit of the state, any leased relocatable facility which is the property of the state, against any risks, including liability from the use thereof, in the amounts the board deems necessary to protect the interests of the state.

(h) No relocatable facilities shall be made available to a contracting agency unless the agency furnishes evidence, satisfactory to the board, that the contracting agency has no other facility available for rental, lease, or purchase in the geographic service area that is economically or otherwise feasible.

(i) The board shall have prepared for its use, performance specifications for relocatable facilities and bids for their construction that can be solicited from more than one responsible bidder. The board shall from time to time solicit bids from, and award to, the lowest responsible competitive bidder, contracts for the construction or purchase of relocatable facilities that have been approved for lease to eligible extended day care services contracting agencies.

(j) If at any time the board determines that a lessee's need for particular relocatable facilities which were made available to the lessee pursuant to this article has ceased, the board may take possession of the relocatable facilities and may lease them to other eligible contracting agencies, or, if there is no longer a need for the relocatable facilities, the board may dispose of them to public or private parties in the manner it deems to be in the best interests of the state.

(k) If a lessee uses a particular relocatable facility for only a portion of the year, the board may enter into a second lease with a public or private party for the use of that facility for the portion of the year during which the facility would otherwise be unused, in the manner it deems to be in the best interests of the state. The lessee shall be subject to subdivisions (e) and (g).

SEC. 67. Section 8486 of the Education Code is amended and renumbered to read:

8478. The State Allocation Board shall establish regulations for the allocation of funds for capital outlay for purposes of this chapter. The Superintendent of Public Instruction shall establish qualifications for determining the eligibility of extended day care agencies to apply for these funds.

SEC. 68. Section 8490 of the Education Code is amended and renumbered to read:

8479. The State Department of Education shall submit a written report to the Legislature by June 30, 1986, documenting the department's progress in implementing this article. The report shall include the number of contracts awarded, the number of contracts awarded to programs based on public school sites, the number of children by age or grade level served in programs funded under this

chapter, and any problems with the implementation of this chapter.

SEC. 69. Section 8491 of the Education Code is amended and renumbered to read:

8480. The advisory committee established pursuant to Section 8286 shall perform all of the following functions with regard to this chapter:

(a) Assist the State Department of Education in developing and reviewing guidelines for the administration of this chapter.

(b) Serve in an advisory capacity to the Superintendent of Public Instruction and the Governor for program policy decisions.

(c) Review the implementation of this chapter.

(d) Make written recommendations to the Legislature, the Governor, the State Department of Education, and the State Department of Social Services, by June 30, 1986, with regard to possible improvements to facilitate the implementation of this chapter.

SEC. 70. Section 8492 of the Education Code is amended and renumbered to read:

8481. The Office of the Legislative Analyst shall contract for an independent study of the school age community child care program provided for under this article at the end of the second program year, and shall report the results of the study to the Legislature no later than December 1, 1987. The study shall include, but need not be limited to, program services, cost, staffing, administration, and support services; a review of the maximum reimbursement rate; the relationship between school districts, resource and referral programs, and county welfare departments; the timeliness of the creation of the support for child care; the timeliness of the provision of services; a comparative analysis of program services; and any other factors deemed relevant to the evaluation of the program's attainment of its goals and purposes.

SEC. 71. Section 10000 of the Education Code is amended to read:

10000. (a) Notwithstanding any other provision of law, the Trustees of the California State University and any school district or community college district may enter into an agreement for the exchange of personnel between the state university and the district.

(b) The governing board of any school district, or community college district, a county board of education, or the State Department of Education may execute a contract with any California teacher-training institution whereby certificated personnel of the school district, county, or the State Department of Education may be assigned to the teacher-training institution for full-time or part-time duty for a period not to exceed one year.

(c) Any teacher-training institution in California may execute a contract with the governing board of any school district, or community college district, a county board of education, or the State Board of Education whereby certificated personnel of the institution may be assigned to school districts, community college districts, county boards of education, or the State Department of Education

for full-time or part-time duty for a period not to exceed one year.

(d) Any such contract shall provide for the payment, by the entity to which a person is assigned to the employer, of a sum equivalent to the salary and other employment costs of the employee. In place of that payment, the contract may provide for the exchange of certificated personnel between the district, county, or State Department of Education and the teacher-training institution. Any such employee shall retain his or her status as an employee of the school district, community college district, county, State Department of Education, or teacher-training institution from which he or she is assigned in all respects during the period of the assignment.

SEC. 72. Section 10002 of the Education Code is repealed.

SEC. 73. Section 10010 of the Education Code is repealed.

SEC. 75. Chapter 4 (commencing with Section 10300) of Part 7 of the Education Code is repealed.

SEC. 76. Section 10902 of the Education Code is amended to read:

10902. The governing body of every public authority may do all of the following:

(a) Organize, promote, and conduct programs of community recreation.

(b) Establish systems of playgrounds and recreation.

(c) Acquire, construct, improve, maintain, and operate recreation centers within or without the territorial limits of the public authority.

No events for which an admission price is charged shall be held pursuant to this chapter, except amateur athletic contests, demonstrations, or exhibits and other educational events.

SEC. 77. Section 10915 of the Education Code is repealed.

SEC. 78. Section 12130 of the Education Code is amended to read:

12130. The California State Library is hereby named and designated as the proper state entity to accept, receive and administer any and all funds, moneys or library materials, granted, furnished, provided, appropriated, dedicated or made available by the United States or any of its departments, commissions, boards, bureaus or agencies for the purpose of giving aid to public libraries in the State of California.

SEC. 79. Section 14002.1 of the Education Code is repealed.

SEC. 82. Section 14050 of the Education Code is amended to read:

14050. The county superintendent of schools shall on or before June 30 of each year submit a tentative budget and, on or before October 1 of each year, a final budget to the Superintendent of Public Instruction for the succeeding fiscal year, in the form that the Superintendent of Public Instruction shall prescribe, setting forth all known and estimated revenues of the county school service fund for the succeeding fiscal year from all sources, and the proposed expenditures from the county school service fund for the succeeding fiscal year. The budget shall be approved by the Superintendent of Public Instruction. When a budget is submitted to the Superintendent of Public Instruction for his or her approval, he or

she shall make a review of each program prior to approving the budget. No allowance shall be made under Sections 14050 to 14056, inclusive, whichever are in effect, to a county superintendent of schools for any item of current expenses or capital outlay with respect to which the county superintendent has failed to comply with the regulations of the Superintendent of Public Instruction which he or she is herewith authorized to adopt applicable to such item. The regulations adopted by the Superintendent of Public Instruction hereunder shall not be limited to, but shall, among other matters:

(a) Prescribe procedures relating to budgeting, purchasing and replacing capital outlay items.

(b) Prescribe procedures relating to the purchase, replacement, operation and maintenance of automotive equipment.

(c) Prescribe the conditions under which the county superintendent of schools may provide services to districts by contract.

(d) Prescribe the conditions under which allowances may be made to the county superintendent of schools to contract for the services of special consultants.

(e) Prescribe the conditions under which allowances may be made to the county superintendent of schools to assume functions authorized by law to be performed either by the county superintendent of schools or another public agency.

(f) Prescribe conditions under which allowances will be made to meet conditions of an emergency nature requiring the establishment and maintenance of emergency schools, the providing of emergency teachers for regular elementary schools, the providing of emergency transportation to regular elementary schools, or emergency apportionments to school districts.

(g) Define county school service fund publications and prescribe the procedures to be followed relating to budgeting, printing and distributing those publications.

Upon the approval of the budget by the Superintendent of Public Instruction, he or she shall note his or her approval thereon and transmit one copy thereof to the county superintendent of schools and one copy to the county auditor of the county.

SEC. 83. Section 14051 of the Education Code is repealed.

SEC. 84. Section 14053 of the Education Code is repealed.

SEC. 85. Section 14058 of the Education Code is amended to read:

14058. For all handicapped adults educated by the county superintendent of schools, for all secondary schools maintained in juvenile halls, juvenile homes, and juvenile camps by the county superintendent of schools, and for all students enrolled in grades 9 to 12, inclusive, in opportunity schools and classes and all continuation schools and classes maintained by the county superintendent of schools, the Superintendent of Public Instruction shall allow the same amount as he or she would compute for the foundation program of a high school district under Section 41712.

However, the total of allowances for education of handicapped adults in classes established by the county superintendent of schools pursuant to Section 52570 or 78440 shall not exceed fifty thousand dollars ($50,000) in any one fiscal year. The Superintendent of Public Instruction shall establish a system of priorities that he or she shall by rule or regulation adopt that shall give highest priority to those counties in which no program or an insufficient program for the education of handicapped adults is provided by the school districts within the county, in order to comply with the limitation prescribed by this subdivision.

SEC. 86. Section 16030 of the Education Code is repealed.

SEC. 87. Section 16071 of the Education Code is repealed.

SEC. 89. Section 18330 of the Education Code is amended to read:

18330. Upon the application by petition of 50 or more taxpayers and residents of any union high school district to the board of supervisors in the county in which the union high school district is located, for the formation of a library district, and setting forth the boundaries of the proposed district, the board of supervisors shall, within 10 days after receiving the petition, by resolution, order that an election be held in the proposed district for the determination of the question and shall conduct the election.

SEC. 90. Section 18331 of the Education Code is repealed.

SEC. 91. Section 18332 of the Education Code is repealed.

SEC. 92. Section 18334 of the Education Code is repealed.

SEC. 93. Section 18385 of the Education Code is amended to read:

18385. At the first meeting of the board of trustees of any library district formed under this chapter it shall immediately cause to be made out and filed with the State Librarian a certificate showing that the library has been established, with the date thereof, the names of the trustees, and the officers of the board chosen for the current fiscal year.

SEC. 94. Section 18512 of the Education Code is repealed.

SEC. 95. Section 18514 of the Education Code is repealed.

SEC. 96. Section 18516 of the Education Code is repealed.

SEC. 97. Section 18517 of the Education Code is repealed.

SEC. 98. Section 18710 of the Education Code is amended to read:

18710. As used in this chapter, unless the context otherwise indicates or unless specific exception is made:

(a) "Academic library" means a library established and maintained by a college or university to meet the needs of its students and faculty, and others by agreement.

(b) "Act" means the California Library Services Act.

(c) "Cooperative Library System" means a public library system that consists of two or more jurisdictions entering into a written agreement to implement a regional program in accordance with this chapter, and which, as of the effective date of this chapter, was designated a library system under the Public Library Services Act of 1963 or was a successor to such a library system.

(d) "Direct loan" means the lending of a book or other item

directly to a borrower.

(e) "Equal access" means the right of the residents of jurisdictions that are members of a Cooperative Library System to use on an equal basis with one another the services and loan privileges of any and all other members of the same system.

(f) "Independent public library" means a public library not a member of a system.

(g) "Interlibrary loan" means the lending of a book or other item from one library to another as the result of a user request for the item.

(h) "Interlibrary reference" means the providing of information by one library or reference center to another library or reference center as the result of a user request for the information.

(i) "Jurisdiction" means a county, city and county, city, or any district that is authorized by law to provide public library services and that operates a public library.

(j) "Libraries for institutionalized persons" means libraries maintained by institutions for the purpose of serving their resident populations.

(k) "Net imbalance" means the disproportionate cost incurred under universal borrowing or equal access when a library directly lends a greater number of items to users from outside its jurisdiction than its residents directly borrow from libraries of other jurisdictions.

(*l*) "Public library" means a library, or two or more libraries, that is operated by a single public jurisdiction and that serves its residents free of charge.

(m) "School library" means an organized collection of printed and audiovisual materials that satisfies all of the following criteria:

(1) Is administered as a unit.

(2) Is located in a designated place.

(3) Makes printed, audiovisual, and other materials as well as necessary equipment and services of a staff accessible to elementary and secondary school students and teachers.

(n) "Special library" means one maintained by an association, government service, research institution, learned society, professional association, museum, business firm, industrial enterprise, chamber of commerce, or other organized group, the greater part of their collections being in a specific field or subject, e.g., natural sciences, economics, engineering, law, and history.

(o) "Special Services Programs" means a project establishing or improving service to the underserved of all ages.

(p) "State board" means the California Library Services Board.

(q) "System" means a cooperative library system.

(r) "Underserved" means any population segment with exceptional service needs not adequately met by traditional library service patterns; including, but not limited to, those persons who are geographically isolated, economically disadvantaged, functionally illiterate, of non-English-speaking or limited-English-speaking ability, shut-in, institutionalized, or handicapped.

(s) "Universal borrowing" means the extension by a public library of its direct loan privileges to the eligible borrowers of all other public libraries.

SEC. 99. Section 18720 of the Education Code is amended to read:

18720. There is hereby established in the state government the California Library Services Board, to consist of 13 members. The Governor shall appoint nine members of the state board. Three of the Governor's appointments shall be representative of laypersons, one of whom shall represent the handicapped, one representing limited- and non-English-speaking persons, and one representing economically disadvantaged persons.

The Governor shall also appoint six members of the board, each of whom shall represent one of the following categories: school libraries, libraries for institutionalized persons, public library trustees or commissioners, public libraries, special libraries, and academic libraries.

The Legislature shall appoint the remaining four public members from persons who are not representative of categories mentioned in this section. Two shall be appointed by the Senate Rules Committee and two shall be appointed by the Speaker of the Assembly.

The terms of office of members of the state board shall be for four years and shall begin on January 1 of the year in which the respective terms are to start.

SEC. 100. Section 18721 of the Education Code is repealed.

SEC. 101. Section 18731 of the Education Code is amended to read:

18731. Any California public library may participate in universal borrowing. Public libraries participating in universal borrowing may not exclude the residents of any jurisdiction maintaining a public library. Public libraries that incur a net imbalance shall be reimbursed for the handling costs of the net loans according to the allocation formula developed pursuant to subdivision (f) of Section 18724. Reimbursement shall be incurred only for imbalances between:

(a) System member libraries and independent public libraries.

(b) Independent public libraries with each other.

(c) Member libraries of one system with member libraries of other systems.

SEC. 102. Section 18740 of the Education Code is amended to read:

18740. A library system, eligible for funds under this article, may consist of the following systems:

(a) A cooperative library system that, as of the effective date of this act, was designated a system under the Public Library Services Act of 1963.

(b) A library system in which two or more systems consolidate to form a library system.

(c) A library system that is formed by adding independent public library jurisdictions to an existing system.

(d) A library system formed by any combination of the above.

SEC. 103. Section 18741 of the Education Code is amended to read:

18741. (a) Each system described in Section 18740 shall receive an annual allowance for the improvement and maintenance of coordinated reference service support to the members of the system. Following the effective date of this chapter, if there occurs a consolidation among individual public libraries that, as of the effective date of this chapter, are members of a system, the per member allowance to the system shall continue at the same level as if the consolidation had not taken place.

(b) After identifying the needs of the underserved, each system shall use a fair and equitable portion of its reference allowance to improve the system's reference service to its underserved population through appropriate collection development, provision of reference specialists, and staff training. Funds for the reference grant may also be used for general and specialized reference collection development, employment of reference specialists, and system-wide reference training.

SEC. 104. Section 18743 of the Education Code is amended to read:

18743. Each member library of a system shall provide equal access to all residents of the area served by the system. Member libraries that incur a net imbalance shall be reimbursed through the system for the handling costs of the net loans according to the allocation formula developed pursuant to subdivision (f) of Section 18724.

SEC. 105. Section 18744 of the Education Code is amended to read:

18744. Each member library of a system shall be reimbursed through the system to cover handling costs, excluding communication and delivery costs, of each interlibrary loan between member libraries of the system according to the allocation formula developed pursuant to subdivision (f) of Section 18724.

SEC. 106. Section 18745 of the Education Code is amended to read:

18745. Each system shall annually apply to the state board for funds for intrasystem communications and delivery. Proposals shall be based upon the most cost-effective methods of exchanging materials and information among the member libraries.

SEC. 107. Section 18746 of the Education Code is amended to read:

18746. Each system shall annually apply to the state board for funds for planning, coordination, and evaluation of the overall systemwide services authorized by this chapter.

SEC. 108. Section 18747 of the Education Code is amended to read:

18747. (a) Each system shall establish an administrative council whose membership consists of the head librarians of each jurisdiction

in the system. Duties of the administrative council shall include general administrative responsibility for the system, adopting a system plan of service, and submitting annual proposals to the state board for implementation of the provisions of this article.

(b) Each system shall establish an advisory board consisting of as many members as there are member jurisdictions of the system. The governing body of each member jurisdiction shall appoint one member to the advisory board from among its residents.

SEC. 109. Section 18748 of the Education Code is repealed.

SEC. 110. Section 18752 of the Education Code is repealed.

SEC. 111. Section 18765 of the Education Code is amended to read:

18765. Each California library eligible to be reimbursed under this section for participation in the statewide interlibrary loan program shall be reimbursed according to the allocation formula developed pursuant to subdivision (f) of Section 18724 to cover the handling costs of each interlibrary loan whenever the borrowing library is a public library, except for the interlibrary loans made between members of a cooperative library system as provided in Section 18744. Libraries eligible for interlibrary loan reimbursement under this section shall include public libraries, libraries operated by public schools or school districts, libraries operated by public colleges or universities, libraries operated by public agencies for institutionalized persons, and libraries operated by nonprofit private educational or research institutions. Loans to eligible libraries by public libraries shall also be reimbursed according to the allocation formula developed pursuant to subdivision (f) of Section 18724.

SEC. 112. Section 19143 of the Education Code is amended to read:

19143. At the time of his or her appointment, the county librarian need not be a resident of the county nor a citizen of the State of California.

SEC. 113. Section 19144 of the Education Code is repealed.

SEC. 114. Section 19167 of the Education Code is amended to read:

19167. The county free libraries are under the general supervision of the State Librarian, who shall from time to time, either personally or by one of his or her assistants, visit the county free libraries and inquire into their condition. The actual and necessary expenses of the visits shall be paid out of the moneys appropriated for the support of the California State Library.

SEC. 115. Section 19301 of the Education Code is amended to read:

19301. There is in the State Department of Education a division known as the California State Library.

SEC. 116. Section 19304 of the Education Code is repealed.

SEC. 117. Section 19305 of the Education Code is repealed.

SEC. 118. Section 19320 of the Education Code is amended to read:

19320. The State Librarian may do all of the following:

(a) Make rules and regulations, not inconsistent with law, for the government of the State Library.

(b) Appoint assistants as necessary.

(c) Sell or exchange duplicate copies of books.

(d) Keep in order and repair the books and property in the library.

(e) Prescribe rules and regulations permitting persons other than Members of the Legislature and other state officers to have the use of books from the library.

(f) Collect and preserve statistics and other information pertaining to libraries, which shall be available to other libraries within the state applying for the information.

(g) Establish, in his or her discretion, deposit stations in various parts of the state, under the control of an officer or employee of the State Library. No book shall be kept permanently away from the main library, which may be required for official use. Books and other library materials from public libraries of the state may be accepted for deposit, under agreements entered into by the State Librarian and the public libraries concerned, whereby materials that should be preserved but are rarely used in the region may be stored and made available for use under the same conditions that apply to materials in the State Library.

(h) Collect, preserve, and disseminate information regarding the history of the state.

(i) Authorize the State Library to serve as regional library for the blind, in cooperation with the Library of Congress.

(j) Give advisory, consultive, and technical assistance with respect to public libraries to librarians and library authorities, and assist all other authorities, state and local, in assuming their full responsibility for library services.

(k) Authorize the State Library to serve as the central reference and research library for the departments of state government and maintain adequate legislative reference and research library services for the Legislature.

(*l*) Acquire, organize and supply books and other library informational and reference materials to supplement the collections of other public libraries of the state with the more technical, scientific and scholarly works, to the end that through an established interlibrary loan system, the people of the state shall have access to the full range of reference and informational materials.

(m) Make studies and surveys of public library needs and adopt rules and regulations for the allocation of federal funds to public libraries.

(n) Contract, at his or her discretion, with other public libraries in the state to give public services of the types referred to in subdivisions (g) and (*l*) of this section, when service by contract appears to be a needed supplement to the facilities and services carried on directly by the State Library.

SEC. 119. Section 19321 of the Education Code is amended to read:

19321. The State Librarian shall also do all of the following:

(a) Purchase books, maps, engravings, paintings, furniture, and other materials and equipment necessary to carry out State Library programs and services.

(b) Number and stamp all books and maps belonging to the library, or otherwise indicate ownership of them, and keep a catalog thereof.

(c) Have bound all books and papers that require binding.

(d) Keep a register of all books taken from the library.

SEC. 120. Section 19325 of the Education Code is amended to read:

19325. The State Librarian may provide toll-free telephone services for registered patrons of the federally designated regional libraries for the blind and physically handicapped, in order to enable those persons to have direct patron access to library services.

SEC. 121. Section 19330 of the Education Code is amended to read:

19330. Books may be taken from the library by the Members of the Legislature and by other state officers during regular office hours.

SEC. 122. Section 19331 of the Education Code is amended to read:

19331. The Controller, when notified by the State Librarian that any officer or employee of the state for whom he or she draws a warrant for salary has failed to return any book taken by him or her, or for which he or she has given an order, within the time prescribed by the rules, or the time within which it was agreed to be returned, and which notice shall give the value of the book, shall, after first informing the officer or employee of the notice, upon failure by him or her to return the book, deduct from the warrant for the salary of the officer or employee, twice the value of the book, and place the amount deducted in the General Fund.

SEC. 123. Section 19332 of the Education Code is amended to read:

19332. In case of the neglect or refusal on the part of any officer or employee of the state to return a book for which he or she has given an order or a receipt or has in his or her possession, the State Librarian may purchase for the library a duplicate of the book, and notify the Controller of the purchase, together with the cost of the book. Upon the receipt of the notice from the department, the Controller shall deduct twice the cost of the duplicate book from the warrant for the salary of the officer or employee, and place the amount deducted in the General Fund.

SEC. 124. Section 19333 of the Education Code is amended to read:

19333. The State Librarian may bring suit in his or her official capacity for the recovery of any book, or for three times the value

thereof, together with costs of suit, against any person who has the book in his or her possession or who is responsible therefor. If the department has purchased a duplicate of any book, it may bring suit for three times the amount expended for the duplicate, together with costs of suit.

SEC. 125. Section 19425 of the Education Code is amended to read:

19425. The board shall cause a proper record of its proceedings to be kept, and at the first meeting of the board of trustees of the library district, it shall immediately cause to be made out and filed with the State Librarian a certificate showing that the library district has been established, with the date thereof, the names of the trustees, and the officers of the board chosen for the current fiscal year.

SEC. 126. Section 19523 of the Education Code is repealed.

SEC. 127. Section 19524 of the Education Code is amended to read:

19524. If it appears that two-thirds of the votes cast at the election were cast in favor of issuing the bonds, the board shall enter the fact upon its minutes and shall certify all the proceedings to the supervising board of supervisors. Thereupon the board of supervisors shall issue the bonds of the district, in the number and amount provided in the proceedings, and the district shall be named on the bonds. The bonds shall be paid out of the building fund of the district.

The money for the redemption of the bonds and the payment of interest thereon shall be raised by taxation upon the taxable property in the district.

SEC. 128. Section 19601 of the Education Code is amended to read:

19601. Upon the application, by petition, of 50 or more taxpayers and residents of any unincorporated town or village to the board of supervisors in the county in which the town or village is located, for the formation of a library district, and setting forth the boundaries of the proposed district, the board of supervisors shall, within 10 days after receiving the petition, by resolution, order that an election be held in the proposed district for the determination of the question and shall conduct the election.

SEC. 129. Section 19602 of the Education Code is repealed.

SEC. 130. Section 19606 of the Education Code is repealed.

SEC. 131. Section 19607 of the Education Code is repealed.

SEC. 132. Section 19609 of the Education Code is repealed.

SEC. 133. Section 19644 of the Education Code is amended to read:

19644. The board shall cause a proper record of its proceedings to be kept, and at the first meeting of the board of trustees, it shall immediately cause to be made out and filed with the State Librarian a certificate showing that the library has been established, with the date thereof, the names of the trustees, and the officers of the board chosen for the current fiscal year.

SEC. 134. Section 19800 of the Education Code is repealed.

SEC. 135. Section 19901 of the Education Code is amended to read:

19901. Before making the deposit, the board of supervisors shall obtain from the board of trustees or authorities in charge of the free public library, or the State Librarian, or the board of governors, as the case may be, an agreement that it will properly preserve and care for the newspaper files, and make them accessible to the public.

SEC. 136. Section 22609 of the Education Code is amended to read:

22609. A person employed as a student teacher pursuant to Section 44926 is excluded from membership in the system and the Public Employees' Retirement System.

SEC. 137. Chapter 14 (commencing with Section 23300) of Part 13 of the Education Code is repealed.

SEC. 138. Section 23500 of the Education Code is repealed.
SEC. 139. Section 23502 of the Education Code is repealed.
SEC. 140. Section 23503 of the Education Code is repealed.
SEC. 141. Section 23504 of the Education Code is repealed.
SEC. 142. Section 23507 of the Education Code is repealed.
SEC. 143. Section 23508 of the Education Code is repealed.
SEC. 144. Section 23509 of the Education Code is repealed.
SEC. 145. Section 23513 of the Education Code is repealed.
SEC. 146. Section 23514 of the Education Code is repealed.
SEC. 147. Section 23515 of the Education Code is repealed.
SEC. 148. Section 23516 of the Education Code is repealed.
SEC. 149. Section 23517 of the Education Code is repealed.
SEC. 150. Section 23518 of the Education Code is repealed.
SEC. 151. Section 23519 of the Education Code is repealed.
SEC. 152. Section 23520 of the Education Code is repealed.
SEC. 153. Section 23521 of the Education Code is repealed.
SEC. 154. Section 23522 of the Education Code is repealed.
SEC. 155. Section 23523 of the Education Code is repealed.
SEC. 156. Section 23524 of the Education Code is repealed.
SEC. 157. Section 23525 of the Education Code is repealed.
SEC. 158. Section 23527 of the Education Code is repealed.
SEC. 159. Section 23600 of the Education Code is repealed.
SEC. 160. Section 23601 of the Education Code is repealed.
SEC. 161. Section 23602 of the Education Code is repealed.
SEC. 162. Section 23603 of the Education Code is repealed.
SEC. 163. Section 23604 of the Education Code is repealed.
SEC. 164. Section 23605 of the Education Code is repealed.
SEC. 165. Section 23606 of the Education Code is repealed.
SEC. 166. Section 23607 of the Education Code is repealed.
SEC. 167. Section 23608 of the Education Code is repealed.
SEC. 168. Section 23609 of the Education Code is repealed.
SEC. 169. Section 23610 of the Education Code is repealed.
SEC. 170. Section 23611 of the Education Code is repealed.
SEC. 171. Section 23612 of the Education Code is repealed.
SEC. 172. Section 23613 of the Education Code is repealed.

SEC. 173. Section 23616 of the Education Code is repealed.

SEC. 174. Section 24006 of the Education Code is repealed.

SEC. 175. Section 24101 of the Education Code is repealed.

SEC. 176. Section 33319.5 is added to the Education Code, to read:

33319.5. The State Department of Education may encourage among school districts, county boards of education, and county superintendents of schools the implementation of the authority granted to those agencies by Section 35160, including the rendering to those agencies, upon request, advisory opinions on whether a program, activity, or course of action is authorized by Section 35160. The department may publish and disseminate those opinions.

SEC. 177. Section 33420 of the Education Code is amended to read:

33420. (a) The Superintendent of Public Instruction, in cooperation with the State Department of Finance and the Auditor General, shall, on or before July 1, 1980, provide for a plan for independent audits of state and federal funds allocated to private agencies that are under contract with the State Department of Education for the provision of educational services.

For the purpose of this article, "educational services" includes, but is not limited to, child nutrition and child development services.

To the maximum extent possible, the plan shall conform to audit procedures pursuant to Section 41020.5.

(b) Effective July 1, 1980, the State Department of Education, as a condition to any contract with a private agency for the provision of educational services, shall require a periodic audit of state and federal funds to be conducted by departmental staff auditors or a certified public accountant or public accountant who is licensed by the California State Board of Accountancy. For child development services, the audit shall include all funds deposited in the child development fund. For all other educational services, the audit shall be limited to those state and federal funds accruing to the private agency as a result of its contract with the State Department of Education.

(c) If in the course of those audits of a private agency, an audit exception is reported by the certified public accounting firm in excess of a material amount as determined by the Superintendent of Public Instruction, the Superintendent of Public Instruction shall, upon final determination by the superintendent of the amount of the audit exception, collect that audit exception and redistribute the amount collected to the same class of program, or withhold the amount of the audit exception from the next payment to the agency in which the audit exception was discovered.

(d) The State Department of Education shall establish a schedule for audits that meets federal regulations.

(e) The State Department of Education may exempt from the provisions of this section those agencies for which, in the department's estimation, the cost of an audit would be inordinate in

relation to the level of funding received by the private agency for the educational services provided.

SEC. 178. Section 35000 of the Education Code is amended to read:

35000. The first governing board of any new school district shall, at the first meeting of the board or as soon as practicable thereafter, name the district.

The name of an elementary district shall be in the form of "_____ District (using the name of the district), of _____ County" (using the name of the county in which the district is situated). The name of an elementary district shall not include a number.

The name of a unified school district shall be in the form of "_____ (using the name of the district) Unified School District." A number shall not be used as a part of the designation of any unified school district.

SEC. 179. Section 35001 of the Education Code is amended to read:

35001. (a) Whenever a petition is presented to the board of supervisors, signed by at least 15 qualified electors of any school district, asking that the name of the district be changed, the board of supervisors shall designate a day upon which it will act upon the petition, which shall not be less than 10 days nor more than 40 days after the receipt of the petition.

The clerk of the board of supervisors shall give notice to all parties interested by sending by registered mail to each of the governing board members of the school district a notice of the time for the hearing of the petition. Notices shall be mailed at least 10 days before the day set for hearing. At the hearing the board shall by resolution either grant or deny the petition, and, if granted, the clerk shall notify the county superintendent of the change of the name of the district.

(b) As an alternative to the procedures set forth in subdivision (a), a petition may be presented to the superintendent of schools having jurisdiction of any high school district signed by at least two-thirds of the members of the governing board of the high school district asking that the name of the district be changed and stating the new name desired. The procedure shall thereafter be the same as is provided for electors' petitions in subdivision (a), except:

(1) The clerk of the board of supervisors shall give notice to all persons interested, by publication in a newspaper published within the high school district, or, if there is none, then in any newspaper published in the county, of the time set for the hearing of the petition, instead of by registered mail. The notice shall be published at least twice before the day set for hearing.

(2) In addition to notification of the county superintendent of schools, the change shall be certified to the county clerk of each county in which any part of the high school district is situated and entered by him or her in his or her record of high school districts.

SEC. 180. Section 35002 of the Education Code is repealed.

SEC. 181. Article 2 (commencing with Section 35010) of Chapter 1 of Part 21 of the Education Code is repealed.

SEC. 182. Article 2 (commencing with Section 35010) is added to Chapter 1 of Part 21 of the Education Code, to read:

Article 2. General Provisions

35010. (a) Every school district shall be under the control of a board of school trustees or a board of education.

(b) The governing board of each school district shall prescribe and enforce rules not inconsistent with law, or with the rules prescribed by the State Board of Education, for its own government.

35012. (a) Except as otherwise provided, the governing board of a school district shall consist of five members elected at large by the qualified voters of the district. The terms of the members shall, except as otherwise provided, be for four years and staggered so that as nearly as practicable one-half of the members shall be elected in each odd-numbered year.

(b) A unified school district formed pursuant to the provisions of Chapter 2 (commencing with Section 4200) of Part 3 may have a governing board of seven members in the event the proposal for unification has specified a governing board of seven members. The members of the board shall be elected at large or by trustee areas as designated in the proposal for unification and shall serve four-year terms of office.

(c) Notwithstanding subdivision (a), and except as provided in this subdivision and Section 5018, the governing board of an elementary school district other than a union or joint union elementary school district shall consist of three members selected at large from the territory comprising the district. Whenever, in any such elementary school district the average daily attendance during the preceding fiscal year is 300 or more, the procedures prescribed by Section 5018 shall be undertaken.

(d) There may be submitted to the governing board of a school district maintaining one or more high schools a pupil petition requesting the governing board to appoint one or more nonvoting pupil members to the board pursuant to this section.

The petition shall contain the signatures of either (a) not less than 500 pupils regularly enrolled in high schools of the district, or (b) not less than 10 percent of the number of pupils regularly enrolled in high schools of the district, whichever is less.

Upon receipt of the petition, the governing board shall, commencing July 1, 1976, and each year thereafter, order the inclusion within the membership of the governing board, in addition to the number of members otherwise prescribed, at least one nonvoting pupil member. The board may order the inclusion of more than one nonvoting pupil member.

Each pupil member shall have the right to attend each and all

meetings of the governing board, except executive sessions.

Any pupil selected to serve as the nonvoting member of the governing board shall be enrolled in a high school of the district, may be less than 18 years of age, and shall be chosen by the pupils enrolled in the high school or high schools of the district in accordance with procedures prescribed by the governing board. The term of a pupil member shall be one year commencing on July 1 of each year.

A nonvoting pupil member shall be entitled to the mileage allowance to the same extent as regular members, but is not entitled to the compensation prescribed by Section 35120.

A nonvoting pupil member shall be seated with the members of the governing board and shall be recognized as a full member of the board at the meetings, including receiving all materials presented to the board members and participating in the questioning of witnesses and the discussion of issues.

The nonvoting pupil member shall not be included in determining the vote required to carry any measure before the board.

The nonvoting pupil member shall not be liable for any acts of the governing board.

35014. (a) As prescribed in subdivision (g) of Section 35035, the governing board of each school district shall certify, within 45 days, in writing whether or not the school district is able to meet its financial obligations for the remainder of the fiscal year. These certifications shall be based upon the board's assessment of the district's probable cash within the county treasury and the district's probable unrestricted fund balances that will be available for meeting their obligations. The certifications shall be classified as positive, qualified, or negative certifications, as prescribed by the Superintendent of Public Instruction for the purposes of determining subsequent state agency actions pursuant to subdivision (b). These certifications shall be based upon the financial and budgetary reports required by subdivision (g) of Section 35035 but may include additional financial information known by the governing board to exist at the time of each certification. A copy of each certification shall be filed with the county superintendent of schools. Copies of any certification in which the governing board is unable to certify unqualifiedly that these financial obligations will be met shall be sent to the Controller and the Superintendent of Public Instruction at the time of the certification, together with a completed transmittal form provided by the Controller. County superintendents shall comment within 75 days of the close of the reporting period on all school district certifications that are classified as qualified or negative pursuant to this section and send those comments to the Superintendent of Public Instruction and the Controller.

(b) Whenever a district governing board transmits to the Controller and the Superintendent of Public Instruction a qualified or negative certification as required by subdivision (a), the State Department of Education, in cooperation with the Controller's

office, shall review the certification and the attached report together with the comments by the county superintendent and any other pertinent information available to them. After consulting with the county superintendent of schools the State Department of Education, in cooperation with the Controller's office, may take the following actions, or other actions as appropriate:

(1) With respect to qualified certifications, direct the county superintendent of schools to exercise his or her authority as prescribed in Section 42637.

(2) With respect to negative certifications, conduct an onsite review, direct the county superintendent of schools to exercise his or her authority as prescribed in Section 42637, and direct the district to prepare alternative plans for resolving the identified fiscal problem.

(c) On or before June 30 each year, each county superintendent of schools shall report to the Controller and the Superintendent of Public Instruction as to whether the governing boards of each of the school districts under his or her jurisdiction have submitted the certification required by subdivision (a).

SEC. 183. Section 35023 of the Education Code is amended to read:

35023. The governing board of each school district of every kind or class shall annually at its initial meeting select one of its members as its representative who shall have one vote for each member to be elected to the county committee provided by Article 1 (commencing with Section 4000) of Chapter 1 of Part 3. The secretary or clerk of the district shall furnish the county superintendent of schools with a certificate naming the representative selected by the board.

SEC. 184. Section 35027 of the Education Code is repealed.

SEC. 184.5. Section 35031 of the Education Code is amended to read:

35031. Any district superintendent of schools, or deputy, associate, or assistant superintendent of schools, may be elected for a term of no more than four years. The governing board of any school district, with the consent of the employee concerned, may at any time terminate, effective on the next succeeding first day of July, the term of employment of, and any contract of employment with, the superintendent of schools, or any associate, deputy, or assistant superintendent of schools of the district, and reelect or reemploy the employee, on those terms and conditions as may be mutually agreed upon by the board and the employee, for a new term to commence on the effective date of the termination of the existing term of employment. In the event the governing board of a school district determines the superintendent of schools of the district, or deputy, associate, or assistant superintendent of schools, or employee in the senior management of the classified service is not to be reelected or reemployed as such upon the expiration of his or her term, he or she shall be given written notice thereof by the governing board at least 45 days in advance of the expiration of his or her term. In the event

the governing board of a district fails to reelect or reemploy the superintendent of schools of the district, or deputy, associate, or assistant superintendent of schools, or employee in the senior management of the classified service as such and the written notice herein provided for has not been given, he or she shall be deemed reelected for a term of the same length as the one completed, and under the same terms and conditions and with the same compensation.

The notice requirements of Section 44951 shall not apply to persons to whom this section applies.

SEC. 185. Section 35034 of the Education Code is amended to read:

35034. (a) Where the entire area of a county is included within one unified school district or where the entire area of a county is included within one unified school district except for the portions of the county that are included in a school district that is under the jurisdiction of the county superintendent of schools of another county, the county superintendent of schools may be employed as the superintendent of schools of the unified school district; provided he or she is the holder of a certification document authorizing him or her to perform those services. If a county superintendent of schools is employed as the superintendent of schools of a unified school district, he or she may be paid the salary, in addition to that provided by law for his office of county superintendent of schools, that he or she and the governing board of the unified school district may agree upon.

(b) Any county superintendent of schools who was employed as a district superintendent of a unified school district on or before September 20, 1963, may continue to perform those services without possessing the certification document otherwise required so long as he or she remains continuously employed or reemployed in his or her position.

(c) Where the entire area of a county is included within one unified school district except for the portions of the county that are included in a school district that is under the jurisdiction of the county superintendent of schools of another county, the person who was county superintendent of schools at the time the unified school district was formed may be employed as the superintendent of schools of the unified school district without possessing the certification document otherwise required so long as he or she remains continuously employed or reemployed in his or her position.

SEC. 186. Section 35036 of the Education Code is repealed.

SEC. 187. Section 35037 of the Education Code is repealed.

SEC. 188. Section 35040 of the Education Code is repealed.

SEC. 189. Section 35042 of the Education Code is repealed.

SEC. 190. Section 35043 of the Education Code is repealed.

SEC. 191. Section 35104 of the Education Code is amended and renumbered to read:

35767. Except as otherwise provided in Article 1 (commencing

with Section 35100) of Chapter 2 of Part 21, and notwithstanding the provisions of Section 35101, the county superintendent of schools having jurisdiction may consolidate the election for the purpose of electing the governing board of a unified school district proposed to be formed under Chapter 2 (commencing with Section 4200) of Part 3 with the election held for adopting or rejecting the plans and recommendations for the formation of a new district. The election shall be called, held, and conducted pursuant to Article 1 (commencing with Section 5000) of Chapter 1 of Part 4, Chapter 3 (commencing with Section 5300) of Part 4, and Article 1 (commencing with Section 35100) of Chapter 2 of Part 21, except that the question of formation of a unified school district and any other proposition to be voted upon shall appear on the ballot before the list of candidates for election to the governing board of the proposed unified district.

SEC. 192. Section 35122 of the Education Code is repealed.

SEC. 193. Section 35123 of the Education Code is repealed.

SEC. 194. Section 35124 of the Education Code is amended to read:

35124. The superintendent of schools of a unified school district that is coterminous with the boundaries of a city and county shall have all the powers and duties set forth in this code for a superintendent of any school district of the class of school that is included within the unified school district and also shall perform the duties of the county superintendent. The superintendent shall have his or her compensation fixed and ordered paid by the board of education, anything in a city, county, or city and county charter to the contrary notwithstanding.

SEC. 195. Section 35125 of the Education Code is repealed.

SEC. 196. Section 35145 of the Education Code is amended to read:

35145. All meetings of the governing board of any school district shall be open to the public and shall be conducted in accordance with Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code. All actions authorized or required by law of the governing board shall be taken at the meetings and shall be subject to the following requirements:

(a) Minutes shall be taken at all of those meetings, recording all actions taken by the governing board. The minutes are public records and shall be available to the public.

(b) An agenda shall be posted by the governing board, or its designee, in accordance with the requirements of Section 54954.2 of the Government Code. Any interested person may commence an action by mandamus or injunction pursuant to Section 54960.1 of the Government Code for the purpose of obtaining a judicial determination that any action taken by the governing board in violation of this subdivision or Section 35144 is null and void.

SEC. 197. Section 35147 of the Education Code is repealed.

SEC. 198. Section 35148 of the Education Code is repealed.

SEC. 199. Section 35160.1 is added to the Education Code, to read:

35160.1. (a) The Legislature finds and declares that school districts, county boards of education, and county superintendents of schools have diverse needs unique to their individual communities and programs. Moreover, in addressing their needs, common as well as unique, school districts, county boards of education, and county superintendents of schools should have the flexibility to create their own unique solutions.

(b) In enacting Section 35160, it is the intent of the Legislature to give school districts, county boards of education, and county superintendents of schools broad authority to carry on activities and programs, including the expenditure of funds for programs and activities which, in the determination of the governing board of the school district, the county board of education, or the county superintendent of schools are necessary or desirable in meeting their needs and are not inconsistent with the purposes for which the funds were appropriated. It is the intent of the Legislature that Section 35160 be liberally construed to effect this objective.

(c) The Legislature further declares that the adoption of this section is a clarification of existing law under Section 35160.

SEC. 200. Section 35161 of the Education Code is amended to read:

35161. The governing board of any school district may execute any powers delegated by law to it or to the district of which it is the governing board, and shall discharge any duty imposed by law upon it or upon the district of which it is the governing board, and may delegate to an officer or employee of the district any of those powers or duties. The governing board, however, retains ultimate responsibility over the performance of those powers or duties so delegated.

SEC. 201. Section 35169 of the Education Code is repealed.

SEC. 202. Section 35173 of the Education Code is repealed.

SEC. 203. Section 35176 of the Education Code is repealed.

SEC. 204. Section 35209 of the Education Code is repealed.

SEC. 205. Section 35210 of the Education Code is repealed.

SEC. 206. Section 35212 of the Education Code is repealed.

SEC. 207. Section 35270 of the Education Code is repealed.

SEC. 208. Section 35273 of the Education Code is repealed.

SEC. 209. Section 35274 of the Education Code is repealed.

SEC. 210. Section 35276 of the Education Code is repealed.

SEC. 211. Article 11 (commencing with Section 35300) of Chapter 2 of Part 21 of the Education Code is repealed.

SEC. 212. Section 35340 of the Education Code is repealed.

SEC. 213. Section 35512 of the Education Code is amended to read:

35512. "County committee" means the county committee on school district organization, organized and acting as provided for in Article 1 (commencing with Section 4000) of Chapter 1 of Part 3, or

the county board of education, organized and acting as provided for in Article 2 (commencing with Section 4020) of Chapter 1 of Part 3.

SEC. 214. Section 35734 of the Education Code is amended to read:

35734. The plans and recommendations may include a provision for trustee areas that provide for representation in accordance with population and geographic factors of the entire area of the district. Any provision of that kind shall also specify the boundaries of the proposed trustee areas and shall specify whether members of the governing board shall be elected by the registered voters of the entire school district or by only the registered voters of that particular trustee area. A proposal for trustee areas shall be considered as an inherent part of the proposal and not as a separate proposition.

In the absence of a provision for trustee areas, the proposed new district shall have a governing board elected by the registered voters of the entire district.

SEC. 215. Section 37000.5 of the Education Code is repealed.

SEC. 216. Section 37001 of the Education Code is repealed.

SEC. 217. Section 37002 of the Education Code is repealed.

SEC. 218. Section 37003 of the Education Code is repealed.

SEC. 219. Section 37004 of the Education Code is repealed.

SEC. 220. Section 37005 of the Education Code is repealed.

SEC. 221. Section 37006 of the Education Code is repealed.

SEC. 222. Section 37007 of the Education Code is repealed.

SEC. 223. Section 37008 of the Education Code is repealed.

SEC. 224. Article 2 (commencing with Section 37020) of Chapter 1 of Part 22 of the Education Code is repealed.

SEC. 225. Article 3 (commencing with Section 37040) of Chapter 1 of Part 22 of the Education Code is repealed.

SEC. 226. Article 4 (commencing with Section 37050) of Chapter 1 of Part 22 of the Education Code is repealed.

SEC. 227. Section 37060 of the Education Code is repealed.

SEC. 227.5. Section 37060 is added to the Education Code, to read:

37060. The governing board of a county, a high school district, a union high school district, or a joint union high school district may establish a junior high school or a system of junior high schools.

SEC. 228. Section 37061 of the Education Code is repealed.

SEC. 229. Section 37062 of the Education Code is repealed.

SEC. 230. Section 37065 of the Education Code is repealed.

SEC. 231. Section 37073 of the Education Code is repealed.

SEC. 232. Section 37074 of the Education Code is repealed.

SEC. 233. Section 37075 of the Education Code is repealed.

SEC. 234. Section 37076 of the Education Code is repealed.

SEC. 235. Section 37077 of the Education Code is repealed.

SEC. 236. Section 37078 of the Education Code is repealed.

SEC. 237. Section 37079 of the Education Code is repealed.

SEC. 238. Section 37084 of the Education Code is repealed.

SEC. 241. Section 37087 of the Education Code is repealed.

SEC. 242. Section 37088 of the Education Code is repealed.

SEC. 243. Article 6 (commencing with Section 37100) of Chapter 1 of Part 22 of the Education Code is repealed.

SEC. 244. Section 37201 of the Education Code is amended to read:

37201. (a) A school month is 20 days or four weeks of five days each, including legal holidays but excluding weekend makeup classes. For the purposes of counting attendance only in providing for a school calendar the winter vacation period, or any portion thereof, may be excluded by the school district in the definition of a school month.

(b) The provisions of subdivision (a) of this section are limited to defining a school month for attendance-counting purposes only.

SEC. 245. Section 37203 of the Education Code is repealed.

SEC. 246. Article 2 (commencing with Section 37210) of Chapter 2 of Part 22 of the Education Code is repealed.

SEC. 247. Section 37220 of the Education Code is repealed.

SEC. 248. Section 37220 is added to the Education Code, to read:

37220. (a) Except as otherwise provided, the public schools shall close on the following holidays:

(1) January 1.

(2) The third Monday in January or Monday or Friday in the week in which January 15th occurs known as "Dr. Martin Luther King, Jr. Day." On the Friday preceding which day the schools are closed, schools shall include exercises commemorating and directing attention to the history of the civil rights movement in the United States and particularly the role therein of Dr. Martin Luther King, Jr.

(3) February 12th known as "Lincoln Day." On the day that school is in session prior to February 12th, all public schools and educational institutions throughout the state shall hold exercises in memory of Abraham Lincoln.

(4) The third Monday in February known as "Washington Day." On the Friday preceding, all public schools and educational institutions throughout the state shall hold exercises in memory of George Washington.

(5) The last Monday in May known as "Memorial Day."

(6) July 4th.

(7) The first Monday in September known as "Labor Day."

(8) November 11th or the Monday or Friday of the week in which November 11th occurs known as "Veterans Day."

(9) That Thursday in November proclaimed by the President as "Thanksgiving Day."

(10) December 25th.

(11) All days appointed by the Governor for a public fast, thanksgiving, or holiday and all special or limited holidays on which the Governor provides that the schools shall close.

(12) All days appointed by the President as a public fast,

thanksgiving, or holiday, unless it is a special or limited holiday.

(13) Any other day designated as a holiday by the governing board of the school district.

(b) When any of the holidays on which the schools would be closed fall on Sunday, the public schools shall close on the Monday following.

(c) When any of the holidays on which the schools would be closed falls on Saturday, the public schools shall close on the preceding Friday, and that Friday shall be declared a state holiday.

(d) If any holiday on which the public schools are required to close pursuant to subdivision (a) occurs under federal law on a date different from the date specified in subdivision (a), the governing board of any school district may close the public schools of the district on the date recognized by federal law and maintain classes on the date specified in subdivision (a).

SEC. 249. Section 37221 of the Education Code is repealed.

SEC. 250. Section 37221 is added to the Education Code, to read:

37221. Unless closed by the governing board pursuant to paragraph (13) of subdivision (a) of Section 37220, the public schools shall remain open on, but shall celebrate with appropriate commemorative exercises, the following holidays:

(a) The anniversary of the adoption of the Constitution of the United States, on or near which date schools shall include exercises and instruction in the purpose, meaning, and importance of the Constitution of the United States, including the Bill of Rights.

(b) March 7, the anniversary of the birthday of Luther Burbank, known as Conservation, Bird, and Arbor Day on which day schools shall include exercises and instruction on the economic value of birds and trees, and the promotion of a spirit of protection toward them, and as to the economic value of natural resources, and the desirability of their conservation.

(c) February 15, the anniversary of the birthday of Susan B. Anthony, known as "Susan B. Anthony Day" on which day schools shall include exercises and instruction on the political and economic status of women in the United States and the contributions of Susan B. Anthony thereto.

(d) March 5, the anniversary of the death of Crispus Attucks, the first black American martyr of the Boston Massacre, known as "Black American Day" on which day schools shall include exercises and instruction on the development of black people in the United States.

SEC. 251. Section 37222 of the Education Code is repealed.

SEC. 252. Section 37223 of the Education Code is repealed.

SEC. 253. Section 37224 of the Education Code is repealed.

SEC. 254. Section 37225 of the Education Code is repealed.

SEC. 255. Section 37226 of the Education Code is repealed.

SEC. 256. Section 37227 of the Education Code is repealed.

SEC. 257. Section 37227.5 of the Education Code is repealed.

SEC. 258. Section 37227.6 of the Education Code is amended and renumbered to read:

37222. The second Wednesday in May is designated and set apart as the Day of the Teacher.

All public schools and educational institutions shall observe this day with suitable exercises commemorating and directing attention to teachers and the teaching profession. The exercises required by this section shall be integrated into the regular school program and shall be conducted by the school or institution within the amount otherwise budgeted for educational programs.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 259. Section 37228 of the Education Code is amended and renumbered to read:

37223. The governing board of any elementary, high school, or unified school district or any county superintendent of schools may maintain classes on Saturday or Sunday, or both.

The classes may include, but are not limited to, continuation classes, special day classes for mentally gifted minors, makeup classes for unexcused absences occurring during the week, and the programs of a regional occupational center or regional occupational program.

Except as otherwise provided in this code, the attendance of any pupil in a class or program held on a Saturday or Sunday shall not result in the crediting of more than five days of attendance for the pupil per week.

Attendance at classes conducted on Saturday or Sunday, or both, shall be at the election of the pupil or, in the case of a minor pupil, the parent or guardian of the pupil. However, the governing board may require truants, as defined by Section 48620, to attend makeup classes conducted on one day of a weekend.

Except as otherwise provided in this code, any class which is offered on a Saturday or Sunday shall be one offered during the regular Monday through Friday school week.

The voluntary attendance of pupils in approved programs for mentally gifted minors, as defined in Section 52200, in special educational activities conducted on Saturday or Sunday shall not be included in the computation of the average daily attendance of the district.

SEC. 260. Section 37229 of the Education Code is repealed.

SEC. 261. Section 37230 of the Education Code is repealed.

SEC. 262. Section 37231 of the Education Code is repealed.

SEC. 263. Section 37232 of the Education Code is repealed.

SEC. 264. Section 37250 of the Education Code is repealed.

SEC. 266. Article 2 (commencing with Section 37410) of Chapter 3 of Part 22 of the Education Code is repealed.

SEC. 267. Section 37430 of the Education Code is repealed.

SEC. 268. Section 39001 of the Education Code is repealed.

SEC. 269. Section 39003 of the Education Code is repealed.

SEC. 270. Section 39004 of the Education Code is repealed.

SEC. 271. Section 39007 of the Education Code is amended to read:

39007. (a) Except as provided in subdivision (b), if the State Department of Education, in its report submitted to a school district governing board pursuant to Section 39005 or 39006, and based on the sole or partial basis of the recommendation of the Department of Transportation. does not favor acquisition of a proposed site located within two miles of the center line of an active runway, no state funds, school district funds, or funds of the county in which the district lies shall be granted, apportioned, allowed, or expended, in connection with that site, for school site acquisition or school building construction, or for expansion of existing sites and buildings.

(b) This section does not apply to sites acquired prior to January 1, 1966, nor to any additions or extensions to those sites.

(c) If the recommendation of the Department of Transportation is unfavorable, the recommendation shall not be overruled without the express approval of the State Department of Education and the State Allocation Board.

SEC. 272. Section 39009 of the Education Code is repealed.

SEC. 273. Section 39010 of the Education Code is repealed.

SEC. 274. Section 39011 of the Education Code is repealed.

SEC. 275. Section 39117 of the Education Code is repealed.

SEC. 276. Section 39118 of the Education Code is amended and renumbered to read:

39158. The governing board of each elementary, high school, and unified school district, except districts governed by a city board of education, or any regional occupational center or program created by or authorized to act by an agreement under joint exercise of power before letting any contract or contracts totaling seven thousand five hundred dollars ($7,500) or more, for the erection of any new school building, or for any addition to, or alteration of, an existing school building, shall submit plans therefor to the State Department of Education, and obtain the written approval of the plans by the department. No contract for building made contrary to the provisions of this section is valid, nor shall any public money be paid for erecting, adding to, or altering any school building in contravention of this section.

SEC. 277. Section 39119 of the Education Code is amended and renumbered to read:

39159. Any contract entered into by and between the governing board of any school district and any certified architect or structural engineer pursuant to Section 39148 shall provide that all plans, specifications and estimates prepared pursuant thereto shall be and remain the property of the school district.

SEC. 278. Section 39121 of the Education Code is repealed.

SEC. 279. Section 39122 of the Education Code is repealed.

SEC. 280. Section 39123 of the Education Code is repealed.

SEC. 281. Section 39124 of the Education Code is repealed.

SEC. 282. Section 39230.5 of the Education Code is repealed.

SEC. 283. Article 7 (commencing with Section 39240) of Chapter 2 of Part 23 of the Education Code is repealed.

SEC. 284. Section 39304.5 is added to the Education Code, to read:

39304.5. (a) Any lease or lease with an option to purchase a relocatable structure or temporary use building shall be subject to the following requirements:

(1) A building or structure in which students are expected to enter and which is to be used for school purposes for a total time in excess of three years shall be subject to the provisions of Article 3 (commencing with Section 39140) and Article 6 (commencing with Section 39210).

(2) Paragraph (1) shall not apply to trailer coaches used for classrooms or laboratories if the trailer coaches conform to the requirements of Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code, and the rules and regulations promulgated thereunder concerning mobilehomes, are not expanded or fitted together with other sections to form one unit greater than 16 feet in width, are used for special educational purposes, and are used by not more than 12 students at a time, except that the trailer coaches may be used by not more than 20 students at a time for driver training purposes.

(3) The site on which a leased relocatable structure is located shall be owned by the school district, or shall be under the control of the school district pursuant to a lease or a permit.

(b) As used in this section:

(1) "Temporary use building" is any building for which the intended use by the school district at the time of entering into a lease contract or agreement is not for more than three years from the date of first occupancy.

(2) "Relocatable structure" is any structure that is designed to be relocated.

SEC. 285. Section 39362 of the Education Code is repealed.

SEC. 286. Section 39365 of the Education Code is repealed.

SEC. 287. Section 39365.5 of the Education Code is amended to read:

39365.5. (a) As used in this section, the terms "district," "special education local plan area," and "county office" have the same meaning as prescribed by Part 30 (commencing with Section 56000).

(b) Pursuant to subdivision (b) of Section 39384, the governing board of a school district that adopts a resolution of intent to lease vacant classrooms shall first offer to lease such classrooms for special education programs that are provided by either other districts that comprise part of the special education local plan area in which the leasing district is included or by the county office having jurisdiction over the leasing district, to the pupils of the leasing district, in whole or in part.

(c) Upon adoption of the resolution, the governing board shall notify, in writing, other districts or the county office, as specified in

subdivision (b), of its intent to lease vacant classrooms. The notice shall describe the vacant classrooms, shall specify that the lease shall not exceed a term of 99 years and that the lease payment and other terms of the lease are subject to negotiation, and shall state that the offer to lease is valid for no more than 60 days after receipt thereof.

(d) Notwithstanding Section 39366, the governing board may include in its resolution a time for a public meeting of the governing board to be held at its regular place of meeting at which sealed proposals to lease will be received and considered, and, notwithstanding Section 39369, may post copies of the resolution and publish notice of the adoption of the resolution. However, the governing board shall not act on any proposal prior to either (1) receipt from the county superintendent or the public education agency, as appropriate, of its intent to lease the classrooms or of its intent not to do so; or (2) expiration of the 60-day period prescribed by subdivision (c), whichever first occurs.

(e) An entity desiring to lease the vacant classrooms shall, within 60 days from receipt of the notification, inform the governing board, in writing, of its intent to lease or not to lease the classrooms.

(f) (1) The lease payments and other terms of the lease for vacant classrooms leased to other districts or to the county office, as specified in subdivision (b), shall be negotiated by the entity desiring to lease the vacant classrooms and the governing board. Any entity eligible to lease vacant classrooms pursuant to this section and any governing board may negotiate lease payments prior to the availability of the vacant classrooms.

(2) The lease payments shall not exceed the district's actual costs for maintenance, operation, and custodial services for the leased classrooms.

(3) If more than one governing board offers to lease classrooms, the entity desiring to lease such classrooms may elect to negotiate either individually with each district, or jointly, with some or all of such districts. If the entity elects joint negotiations, the lease payments shall not exceed the participating districts' average actual costs for maintenance, operation, and custodial services for the leased classrooms.

(g) If the governing board and the entity desiring to lease the classrooms are unable to complete negotiations for the lease and arrive at a mutually satisfactory lease within the same 60-day period that the entity has to inform the governing board of its intent to lease or not lease, the governing board may lease the classrooms in accordance with the provisions of this article.

(h) If vacant classrooms are available in both operating and nonoperating schools, the governing board, prior to adopting a resolution of intent to lease, shall consider which school would provide the environment least restrictive to the needs of handicapped pupils or individuals with exceptional needs, as appropriate, for whom the county superintendent or public education agency provides special education programs.

SEC. 288. Section 39373 of the Education Code is repealed.

SEC. 289. Article 8 (commencing with Section 39440) of Chapter 3 of Part 23 of the Education Code is repealed.

SEC. 290. The heading of Article 10 (commencing with Section 39480) of Chapter 3 of Part 23 of the Education Code is amended to read:

Article 10. Exchange of Property

SEC. 291. Section 39482 of the Education Code is repealed.

SEC. 292. Section 39483 of the Education Code is repealed.

SEC. 293. Section 39484 of the Education Code is repealed.

SEC. 294. The heading of Article 11 (commencing with Section 39490) of Chapter 3 of Part 23 of the Education Code is repealed.

SEC. 295. Section 39491 of the Education Code is repealed.

SEC. 296. Article 12 (commencing with Section 39500) of Chapter 3 of Part 23 of the Education Code is repealed.

SEC. 297. Article 16 (commencing with Section 39560) of Chapter 3 of Part 23 of the Education Code is repealed.

SEC. 298. Section 39600 of the Education Code is repealed.

SEC. 299. Section 39642 of the Education Code is repealed.

SEC. 300. Section 39645 of the Education Code is repealed.

SEC. 301. Section 39651 of the Education Code, as amended by Chapter 1024 of the Statutes of 1983, is repealed.

SEC. 302. Section 39651 of the Education Code, as amended by Chapter 36 of the Statutes of 1977, is repealed.

SEC. 303. Section 39659 of the Education Code is repealed.

SEC. 304. Article 3.5 (commencing with Section 39660) of Chapter 4 of Part 23 of the Education Code is repealed.

SEC. 307. Section 39802 of the Education Code is amended to read:

39802. In order to procure the service at the lowest possible figure consistent with proper and satisfactory service, the governing board shall, whenever an expenditure of more than ten thousand dollars ($10,000) is involved, secure bids pursuant to Sections 20111 and 20112 of the Public Contract Code whenever it be contemplated that a contract may be made with a person or corporation other than a common carrier or a municipally owned transit system or a parent or guardian of the pupils to be transported. The governing board may let the contract for the service to other than the lowest bidder. No board shall make any purchase or enter into any contract for the service without securing the written approval of the county superintendent of schools.

SEC. 308. Section 39839 of the Education Code is amended to read:

39839. Signal dogs, service dogs, or guide dogs trained in schools licensed or approved by the California State Board of Guide Dogs for the Blind, may be transported in a schoolbus when accompanied by handicapped pupils enrolled in a public high school or by

handicapped teachers employed in a public high school or community college or by persons employed by those licensed or approved schools to train the dogs. The driver of a schoolbus may determine whether or not the signal dog, service dog, or guide dog should be muzzled while being transported in the schoolbus.

SEC. 309. Section 39840.5 of the Education Code is repealed.

SEC. 310. Section 39902 of the Education Code is amended to read:

39902. (a) The governing board of a school district shall employ persons for food service positions as part of the classified service, except that school districts may utilize the services of volunteers for programs that provide meals for senior citizens as authorized pursuant to Chapter 6 (commencing with Section 9500) of Division 8.5 of the Welfare and Institutions Code. Except as provided in subdivision (b), wages, salaries, and benefits, including employer retirement contributions for all food service personnel, shall be paid from the general fund of the school district. Costs of wages, salaries, and benefits including employer retirement contributions and other purposes classed as food service shall be excluded from the definition of "current expense of education" as defined in Section 41372. The governing board may, at any time, order reimbursement from the cafeteria fund or the cafeteria account to the general fund of the district for payments under this section in the amounts that it prescribes, but not to exceed food service employee salary, wage, and benefit costs then incurred or anticipated.

Any reimbursements in excess of the amount actually required shall be refunded to the cafeteria fund or the cafeteria account not later than the close of the current fiscal year.

The reimbursements from the cafeteria fund or the cafeteria account shall be considered expenses of the cafeteria fund or the cafeteria account, as the case may be, and only those payments made from the general fund that are not reimbursed from the cafeteria fund or the cafeteria account shall be considered expenses of the general fund.

Accounting for these transactions shall be as prescribed in Section 41010.

(b) Notwithstanding subdivision (a), with the approval of the county superintendent of schools, a school district with a cafeteria fund may pay for food service, employee salaries, wage and benefit costs, and the costs of maintenance and operations from the cafeteria fund.

SEC. 311. Section 40004 of the Education Code is repealed.

SEC. 312. Section 40005 of the Education Code is amended and renumbered to read:

1275. The county superintendent may arrange with a county purchasing agent for the purchase of standard school supplies and equipment in accordance with the regulations of the county board of education and the purchasing agent shall act in that capacity when so authorized.

SEC. 313. Section 40010 of the Education Code is repealed.

SEC. 314. Section 40012 of the Education Code is repealed.

SEC. 315. Section 40013 of the Education Code is repealed.

SEC. 316. Section 41002 of the Education Code is amended to read:

41002. All moneys received by any school district or paid into the county or city and county treasury to the credit of the district from state apportionments, county, district or municipal taxes, other than moneys required to be placed in a special reserve fund, a building fund or bond interest and sinking fund, a cafeteria fund, a school farm fund, or moneys received for the rental or lease of real property that, by resolution of the governing board, may be deposited in any authorized fund of the district, shall be deposited in the general fund of the district, which fund is continued in existence in each county and city and county treasury.

Nothing in this section shall be construed as discontinuing, nor as affecting the disposition of moneys in emergency cash funds, in revolving funds for warehouse stock, in cafeteria funds or accounts, or school farm accounts, in special reserve funds, in building funds, or in bond interest and sinking funds created or established under this code.

SEC. 317. Section 41002.5 is added to the Education Code, to read:

41002.5. Notwithstanding Sections 41001 and 41002, money received from the sources, or for the purposes listed in subdivisions (a) to (h), inclusive, may be deposited in a bank or other institution whose accounts are insured by the Federal Deposit Insurance Corporation. Any money so deposited shall be in an account or accounts fully covered by that insurance:

(a) Funds received for the purpose of making loans, scholarships, or grants to students in, or graduates of, a school under the jurisdiction of the governing board of the district.

(b) Funds received for the sale of food or other services performed by one or more cafeterias established in the schools of the district.

(c) Funds received from the sale of produce, livestock, and other products of one or more school farms established in the district.

(d) Clearing accounts established pursuant to Section 41017.

(e) Funds of a student body organization.

(f) Funds in a revolving cash fund established pursuant to Section 42820.

(g) Funds for community recreation programs established pursuant to Chapter 10 (commencing with Section 10900) of Part 7.

(h) Funds that, pursuant to any other law or provision of the California School Accounting Manual, may be deposited in a bank in lieu of the county treasury.

SEC. 318. Section 41032 of the Education Code is amended to read:

41032. (a) The governing board of any school district may accept

on behalf of, and in the name of, the district, gifts, donations, bequests, and devises that are made to the district or to or for the benefit of any school or college administered by the district. The gifts, donations, bequests, and devises may be made subject to conditions or restrictions that the governing board may prescribe.

(b) The money deposited in a separate account in the Foundation Trust Fund shall be invested pursuant to this article or expended only for the purposes of the gift or bequest.

(c) If a gift of land has been accepted by the governing board of a school district upon condition or agreement that it be devoted to school purposes of the district, whether that condition or agreement is written or oral and whether the terms thereof are recited or referred to in any instrument executed in connection with the conveyance of the gift, and the board subsequently determines that the land cannot feasibly be utilized for any school purpose of the district, the board may cause it to be reconveyed to the donor without consideration to the district; provided that failure to do so shall not affect the rights of any bona fide purchaser or encumbrancer of the land.

SEC. 319. Chapter 2 (commencing with Section 41200) of Part 24 of the Education Code is repealed.

SEC. 320. Section 41301.3 of the Education Code is repealed.

SEC. 321. Section 41302 of the Education Code is repealed.

SEC. 322. Section 41306 of the Education Code is amended to read:

41306. The Superintendent of Public Instruction shall also allow as otherwise provided in Section 41304 for the driver training instruction necessary to be safely tested for a driver's license at the Department of Motor Vehicles, those physically handicapped pupils, mentally retarded pupils who come within the provisions of former Section 56501 as amended by Chapter 1247 of the Statutes of 1977, and educationally handicapped pupils who are in attendance in a public secondary school in California that offers qualified instruction, and who may qualify for a driver's license, or other license, issued by the California Department of Motor Vehicles, a total allowance not to exceed two hundred forty-seven dollars ($247) including the reimbursement provisions set forth in Section 41900 to each school district and county superintendent of schools. All driver training for pupils herein described must be provided by qualified teachers, as defined by Sections 41906 and 41907. The provisions of this section may not be applied if reimbursement allowable under Sections 41900 to 41912, inclusive, is sufficient to meet the total cost of instruction as herein described.

It is the intent of the Legislature that driver training instruction be provided pupils as a part of the high school curriculum, and the Legislature finds and declares that exceptional children are entitled to the benefit of that instruction so far as their individual capabilities permit, understanding that those pupils herein described often require individualized and amplified driver training instruction in

order to succeed in becoming safe operators of motor vehicles. Since without a means of self-transportation much of the overall program of education and rehabilitation provided for by the Legislature would be of little avail to the person without the mobility required to become a productive and well-adjusted member of society, the Legislature further declares that it is incumbent upon the state to share in the cost of providing a most needed and desirable program of driver training instruction for these exceptional children.

SEC. 323. Section 41331 of the Education Code is repealed.

SEC. 324. 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 free and reduced priced 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.

(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.

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. 325. Section 41351 of the Education Code is repealed.

SEC. 326. Section 41377 of the Education Code is repealed.

SEC. 327. Article 1 (commencing with Section 41700) of Chapter 5 of Part 24 of the Education Code is repealed.

SEC. 328. Article 2 (commencing with Section 41730) of Chapter 5 of Part 24 of the Education Code is repealed.

SEC. 329. Article 3 (commencing with Section 41750) of Chapter 5 of Part 24 of the Education Code is repealed.

SEC. 330. Section 41760 of the Education Code is repealed.

SEC. 331. Article 7 (commencing with Section 41810) of Chapter 5 of Part 24 of the Education Code is repealed.

SEC. 332. Article 8.5 (commencing with Section 41835) of Chapter 5 of Part 24 of the Education Code is repealed.

SEC. 333. Article 8.5 (commencing with Section 41835) is added to Chapter 5 of Part 24 of the Education Code, to read:

Article 8.5. Continuous School Program

41835. Each school district maintaining a continuous school program in any school within the district pursuant to Chapter 3 of Part 22 shall be entitled to receive the same support, but not more support, from the State School Fund due to the average daily attendance at that school that it would have received if the school had been operating under the provisions of law relating to the regular school year, including summer school.

SEC. 334. Section 41901 of the Education Code is amended to read:

41901. The governing board of each school district maintaining a high school or high schools, each county superintendent of schools, the California Youth Authority, and the State Department of Education shall report annually to the county superintendent of schools and to the Superintendent of Public Instruction on forms provided by the Superintendent of Public Instruction, the cost of instructing such pupils, and other information that may be required for the computation of the total direct and direct support cost incurred in the instruction of the pupils in automobile driver training.

SEC. 335. Section 41903 of the Education Code is amended to read:

41903. The Superintendent of Public Instruction shall determine the amount of total direct and direct support cost incurred by each school district, each county superintendent of schools, the California Youth Authority, and the State Department of Education during the preceding fiscal year for the establishment and maintenance of automobile driver training for pupils enrolled in the schools of the district, the county superintendent of schools, the California Youth Authority, and the State Department of Education in accordance with such regulations as he or she may prescribe.

"Total direct and direct support cost," as used in this section, includes the total current expenditures incurred for instructing pupils in automobile driver training in special classes, including, but not limited to, automobile replacement, insurance, and upkeep and maintenance of automobiles used in the training.

"Special classes," as used in this section, includes classes providing automobile driver training for pupils who may be excused, for the purpose of taking instruction in automobile driver training.

SEC. 336. Chapter 5.5 (commencing with Section 42000) of Part 24 of the Education Code is repealed.

SEC. 337. Chapter 5.7 (commencing with Section 42050) of Part 24 of the Education Code is repealed.

SEC. 338. Section 42125 of the Education Code is amended to read:

42125. The budget may also contain an amount to be known as the appropriation for contingency. The funds in the appropriation for contingency shall be available for appropriation by a two-thirds vote of the members of the governing board, to cover expenditures that have not been provided for or that may have been insufficiently provided for, or for unforeseen requirements as they may arise.

SEC. 339. Article 1 (commencing with Section 42200) of Chapter 7 of Part 24 of the Education Code is repealed.

SEC. 340. Section 42237.7 of the Education Code is repealed.

SEC. 341. Section 42237.9 of the Education Code is repealed.

SEC. 342. Section 42238.5 of the Education Code is amended to read:

42238.5. (a) For purposes of Section 42238, the fiscal year average daily attendance shall be computed pursuant to paragraph (1) or (2).

(1) The second principal apportionment regular average daily attendance for either the current or prior fiscal year, whichever is greater. However, prior fiscal year average daily attendance shall be adjusted for any loss or gain of average daily attendance due to a reorganization or transfer of territory.

(2) Any school district that elects to receive funding pursuant to Article 4 (commencing with Section 42280) shall compute its units of average daily attendance for purposes of Section 42238 by subtracting the amount determined in subparagraph (B) from the amount determined in subparagraph (A).

(A) The units of average daily attendance computed pursuant to either paragraph (1) or (2).

(B) The units of average daily attendance resulting from pupils attending schools funded pursuant to Article 4 (commencing with Section 42280).

(b) For purposes of this article, regular average daily attendance shall be the base revenue limit average daily attendance, excluding summer school average daily attendance, but including the fiscal year units of average daily attendance for pupils concurrently enrolled in adult programs and classes.

SEC. 343. Section 42241 of the Education Code is repealed.

SEC. 344. Section 42243.5 of the Education Code is repealed.

SEC. 345. Section 42244.7 of the Education Code is repealed.

SEC. 346. Chapter 8 (commencing with Section 42400) of Part 24 of the Education Code is repealed.

SEC. 347. Chapter 8.5 (commencing with Section 42501) of Part 24 of the Education Code is repealed.

SEC. 348. Chapter 8.7 (commencing with Section 42521) of Part 24 of the Education Code is repealed.

SEC. 349. Section 42600 of the Education Code is amended to read:

42600. The total amount budgeted as the proposed expenditure of the school district for each major classification of school district expenditures listed in the school district budget forms prescribed by

the Superintendent of Public Instruction shall be the maximum amount that may be expended for that classification of expenditures for the school year. Transfers may be made from the appropriation for contingency to any expenditure classification or between expenditure classifications at any time by written resolution of the board of education of any school district governed by a board of education, when filed with the county superintendent of schools and the county auditor, or by written resolution of the board of trustees of any school district not governed by a board of education, when approved by the county superintendent of schools and filed with the county auditor. A resolution providing for the transfer from the appropriation for contingency to any expenditure classification must be approved by a two-thirds vote of the members of the governing board; a resolution providing for the transfer between expenditure classifications must be approved by a majority of the members of the governing board. Nothing in this section shall be construed as affecting the provisions of Sections 42204 and 85112.

SEC. 350. Section 42601 of the Education Code is amended to read:

42601. At the close of any school year the county superintendent of schools may, with the consent of the governing board of a school district previously given, make transfers between the appropriation for contingency and any expenditure classification or classifications or balance any expenditure classifications of the budget of the district for that school year as necessary to permit the payment of obligations of the district incurred during that school year.

SEC. 351. Article 3.5 (commencing with Section 42625) of Chapter 9 of Part 24 of the Education Code is repealed.

SEC. 352. Section 42631 of the Education Code is amended to read:

42631. All payments from the funds of a school district shall be made by written order of the governing board of the district. Orders shall be on forms prescribed by the county superintendent of schools unless the warrants are processed by an on-line data processing system. Forms may be printed and furnished by the board of supervisors or the county superintendent of schools.

SEC. 353. Section 42636 of the Education Code is amended to read:

42636. (a) The county superintendent of schools may examine each order on school district funds transmitted to him or her, in the order in which it is received in his or her office. If it appears that the order is properly drawn for the payment of legally authorized expenses against the proper funds of the district, and that there are sufficient moneys in the fund or funds against which the order is drawn to pay it, the county superintendent shall endorse upon it "examined and approved," and shall, in attestation thereof, affix his or her signature and number and date the requisition and transmit it directly to the county auditor, in the order in which the order is received in his or her office. The county superintendent may

prescribe alternative methods for districts determined to be fiscally accountable pursuant to Section 42650.

(b) Notwithstanding subdivision (a), the county superintendent may allow electronic transfers, upon approval of the county auditor.

SEC. 354. Section 42637.5 of the Education Code is amended and renumbered to read:

1241.5. At any time during a fiscal year, the county superintendent may audit the expenditures and internal controls of school districts he or she determines to be fiscally accountable. The county superintendent shall report the findings and recommendation to the governing board of the district. The governing board shall, no later than 15 days after receipt of the report, notify the county superintendent of schools of its proposed actions on the county superintendent's recommendation. Upon review of the governing board report, the county superintendent, at his or her discretion, may revoke the authority for the district to be fiscally accountable pursuant to Section 42650.

SEC. 355. Section 42646 of the Education Code is amended to read:

42646. In any county, the county superintendent of schools, with the approval of the Superintendent of Public Instruction, the county board of education, and the county auditor, may prescribe a payroll procedure, to be followed by designated districts in the county, under which the school district governing boards, by use of payroll orders, shall authorize and direct the county superintendent of schools and the county auditor to draw separate payroll warrants in the names of the individual district employees for the respective amounts set forth therein to the end that each employee may be furnished with a statement of the amount earned and an itemization of the amounts withheld therefrom under requirements of the law or by direction of the employee.

The payroll warrants shall show the closing date of the pay period for which issued and the date of issue and a statement that it is drawn by order of the governing board of the district and shall bear the signature of the county auditor.

To obtain the advantage of a uniform pay period and pay date within school districts, the payroll procedure may specify the ending date of the pay period and, notwithstanding Sections 42644, 45040, and 45048, the date of issue for payroll warrants, except that the issue date shall be on or before the 10th calendar day following the end of the pay period. The payroll procedure may provide for salary payments, including salary advances, more frequently than once a month.

The payroll procedure may provide for payroll orders authorizing salary payments to individual employees on a continuing basis until notifications of changes or adjustments are submitted by the school districts, provided that an itemized listing of payments made under this procedure is furnished to the school district on or before the date of issue of the payroll warrants.

The payroll order may direct the transfer from the districts' funds to a clearing fund in the county treasury, to be known as the schools payroll revolving fund, of the total of the amount of the payroll warrants to be issued under the order to the end that payroll warrants for all districts may be drawn against a single revolving fund. The payroll order may further direct the transfer from the districts' funds of the totals of the various deductions set forth therein to the trust funds in the county treasury entitled to receive credit for them and may further direct the proper disbursement of such trust amounts.

When the payroll procedure provides for payment of salary once each month the payment shall be made on the last working day of the month as required by Section 45166.

SEC. 356. Section 42660 of the Education Code is repealed.

SEC. 357. Section 42821 of the Education Code is amended to read:

42821. The governing board of any school district that has established a revolving cash fund pursuant to Section 42820 shall designate a person or persons who shall be authorized to make immediate payments by check, drawn on the revolving cash fund, for purchases in an amount of one thousand dollars ($1,000) or less, including tax and freight, or at the time of preparing the order for those purchases to make the check payable to the vendor permitting him or her to fill in the amount to be paid upon shipment of the purchases, the check to state on its face that it is not valid for more than one thousand dollars ($1,000).

A monthly list of the payments shall be submitted to the governing board by the designated person or persons for approval.

Upon approval of those expenditures by the governing board, the clerk of the governing board shall draw an order for the replenishment of the revolving cash fund from the county or joint school district fund in the county treasury belonging to the school district. The order shall be treated in the same manner as prescribed for payment of other claims against the funds of the school district.

Any person who issues a check drawn on the revolving cash fund shall be personally liable for the amount of the check only if the expenditure is in violation of rules and regulations established by the governing board with respect to the revolving cash fund.

SEC. 358. Section 42834 of the Education Code is repealed.

SEC. 359. Section 44013 of the Education Code is repealed.

SEC. 360. Section 44015 of the Education Code is amended to read:

44015. (a) The governing board of a school district may make awards to employees who do any of the following:

(1) Propose procedures or ideas that thereafter are adopted and effectuated, and that result in eliminating or reducing district expenditures or improving operations.

(2) Perform special acts or special services in the public interest.

(3) By their superior accomplishments, make exceptional

contributions to the efficiency, economy, or other improvement in operations of the school district.

(b) The governing board of a school district may make awards to pupils for excellence.

Before any awards are made pursuant to this section, the governing board shall adopt rules and regulations. The board may appoint one or more merit award committees made up of district officers, district employees, or private citizens to consider employee proposals, special acts, special services, or superior accomplishments and to act affirmatively or negatively thereon or to provide appropriate recommendations thereon to the board.

Any award granted under the provisions of this section that may be made by an awards committee under appropriate district rules, shall not exceed two hundred dollars ($200), unless a larger award is expressly approved by the governing board.

When an awards program is established in a school district pursuant to this section, the governing board shall budget funds for this purpose but may authorize awards from funds under its control whether or not budgeted funds have been provided or the funds budgeted are exhausted.

SEC. 361. Section 44032 of the Education Code is amended to read:

44032. The governing board of any school district shall provide for the payment of the actual and necessary expenses, including traveling expenses, of any employee of the district incurred in the course of performing services for the district, whether within or outside the district, under the direction of the governing board.

SEC. 362. Section 44265 of the Education Code is amended to read:

44265. (a) The minimum requirements for specialist instruction credentials are the following:

(1) A valid teaching credential.

(2) Specialized and professional preparation that the commission may require and that is required by other provisions of this code.

(b) In adopting the necessary rules and regulations, the commission shall emphasize appropriate professional specialized preparation at both the undergraduate and postgraduate level; and supervised participation or student teaching, or equivalent experience in the public schools or institutions; or private schools or institutions of equivalent status.

(c) Specialist instruction includes, but is not limited to, those specialties requiring advanced preparation or special competence, as enumerated:

(1) Early childhood education.

(2) Reading specialist.

(3) Mathematics specialist.

(4) Specialists in special education, which may include teachers of the mentally retarded, learning disabled, physically handicapped, and specialists in the teaching of pupils with speech and hearing

disorders.

(5) Teachers of the blind and partially seeing.

Preparation programs that result in concurrent issuance of a specialist credential and a teaching credential may be approved by the commission.

SEC. 363. Section 44492 of the Education Code is amended to read:

44492. (a) Out of the funds available for that purpose, the superintendent shall allocate funds to participating school districts for the purpose of providing stipends to mentor teachers. The superintendent shall annually make a determination as to the number of certificated classroom teachers employed by each participating school district and may authorize the district to designate as mentors up to 5 percent of the total number of certificated classroom teachers in the district. Teachers designated as mentors shall meet the minimum qualifications established by subdivision (b) of Section 44491.

The superintendent shall increase any fraction resulting from the 5 percent calculation to the next integer, and shall allow districts that have at least five certificated employees to designate one classroom teacher as a mentor teacher.

(b) Each district that has less than five certificated employees shall be eligible for an amount of funding in the mentor teacher program computed by multiplying the number of certificated employees in the district by 5 percent, and multiplying the result by four thousand dollars ($4,000).

(c) Out of the funds available for that purpose, the superintendent shall, in the exercise of his or her discretion, allocate to participating school districts an amount that the superintendent determines to be sufficient to reimburse the necessary costs of participation in the mentor teacher program. For purposes of this subdivision, necessary costs of participation in the mentor teacher program shall include, but not be limited to, the costs of employing a substitute classroom teacher, or other teachers, and costs of administering the program.

If at the end of any fiscal year, an amount of the funds available for purposes of this subdivision remains unallocated, the Superintendent of Public Instruction shall utilize the unallocated amount for purposes of subdivision (a) or (b) in the next fiscal year.

(d) Any school district may apply for and receive funds for the purposes of this program.

School districts that operate mentor teacher programs together under cooperative agreements or pursuant to Section 6502 of the Government Code shall not receive entitlements from state funds in amounts above that which each district would have received while operating its own program.

SEC. 364. Section 44804 of the Education Code is repealed.

SEC. 365. Section 44841 of the Education Code is repealed.

SEC. 366. Section 44880 of the Education Code is repealed.

SEC. 366.5. Section 44882 of the Education Code, as amended by Senate Bill 798 of the 1987–88 Regular Session, is amended and renumbered to read:

44929.21. Every employee of a school district of any type or class who, after having been employed by the district for two complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications shall, at the commencement of the succeeding school year be classified as and become a permanent employee of the district.

The governing board shall notify the employee, on or before March 15 of the employee's second complete consecutive school year of employment by the district in a position or positions requiring certification qualifications, of the decision to reelect or not reelect the employee for the next succeeding school year to such a position. In the event that the governing board does not give notice pursuant to this section on or before March 15, the employee shall be deemed reelected for the next succeeding school year.

SEC. 367. Section 44882 of the Education Code is repealed.

SEC. 367.5. Section 44883 of the Education Code, as amended by Senate Bill 798 of the 1987–88 Regular Session, is amended and renumbered to read:

44929.20. Every certificated employee of any school district in a position requiring a supervision or administration credential, may be offered a continuing contract to cover a period longer than one year but not to exceed four years.

SEC. 368. Section 44883 of the Education Code is repealed.

SEC. 369. Section 44884 of the Education Code is repealed.

SEC. 370. Section 44885 of the Education Code is repealed.

SEC. 371. Section 44885.5 of the Education Code is repealed.

SEC. 372. Section 44886 of the Education Code is repealed.

SEC. 373. Section 44887 of the Education Code is repealed.

SEC. 374. Section 44889 of the Education Code is repealed.

SEC. 375. Section 44890 of the Education Code is repealed.

SEC. 376. Section 44891 of the Education Code is repealed.

SEC. 377. Section 44897 of the Education Code is amended to read:

44897. (a) A person employed in an administrative or supervisory position requiring certification qualifications upon completing a probationary period, including any time served as a classroom teacher, in the same district, shall, in a district having an average daily attendance of 250 or more pupils, be classified as and become a permanent employee as a classroom teacher. In a district having an average daily attendance of less than 250 pupils, he or she may be so classified.

(b) Persons classified pursuant to this section are subject to the limitations contained in Section 44956.5.

SEC. 378. Section 44903.7 of the Education Code is amended to read:

44903.7. When a local plan for the education of individuals with exceptional needs is developed pursuant to Article 6 (commencing with Section 56170) of Chapter 2 of Part 30, the following provisions shall apply:

(a) Whenever any certificated employee, who is performing service for one employer, is terminated, reassigned, or transferred, or becomes an employee of another employer because of the reorganization of special education programs pursuant to Chapter 797 of the Statutes of 1980, the employee shall be entitled to the following:

(1) The employee shall retain the seniority date of his or her employment with the district or county office from which he or she was terminated, reassigned, or transferred, in accordance with Section 44847. In the case of termination, permanent employees shall retain the rights specified in Section 44956 or, in the case of probationary employees, Sections 44957 and 44958, with the district or county office initiating the termination pursuant to Section 44955.

(2) The reassignment, transfer, or new employment caused by the reorganization of special education programs pursuant to Chapter 797 of the Statutes of 1980, shall not affect the seniority or classification of certificated employees already attained in any school district that undergoes the reorganization. These employees shall have the same status with respect to their seniority or classification, with the new employer, including time served as probationary employees. The total number of years served as a certificated employee with the former district or county office shall be credited, year for year, for placement on the salary schedule of the new district or county office.

(b) All certificated employees providing service to individuals with exceptional needs shall be employed by a county office of education or an individual school district. Special education local plan areas or responsible local agencies resulting from local plans for the education of individuals with exceptional needs formulated in accordance with Part 30 (commencing with Section 56000) shall not be considered employers of certificated personnel for purposes of this section.

(c) Subsequent to the reassignment or transfer of any certificated employee as a result of the reorganization of special education programs, pursuant to Chapter 797 of the Statutes of 1980, that employee shall have priority, except as provided in subdivision (d), in being informed of and in filling certificated positions in special education in the areas in which the employee is certificated within the district or county office by which the certificated employee is then currently employed. This priority shall expire 24 months after the date of reassignment or transfer, and may be waived by the employee during that time period.

(d) A certificated employee who has served as a special education teacher in a district or county office and has been terminated from his or her employment by that district or county office pursuant to

Section 44955, shall have first priority in being informed of and in filling vacant certificated positions in special education, for which the employee is certificated and was employed, in any other county office or school district that provides the same type of special education programs and services for the pupils previously served by the terminated employee. For a period of 39 months for permanent employees and 24 months for probationary employees from the date of termination, the employee shall have the first priority right to reappointment as provided in this section, if the employee has not attained the age of 65 years before reappointment.

SEC. 380. Article 2.7 (commencing with Section 44929.20) is added to Chapter 4 of Part 25 of the Education Code, to read:

Article 2.7. Permanent Status

44929.20. Every certificated employee of a school district of any type or class having an average daily attendance of less than 250, and every certificated employee of any school district in a position requiring a supervision or administration credential, may be offered a continuing contract to cover a period longer than one year but not to exceed four years.

44929.21. (a) Every employee of a school district of any type or class having an average daily attendance of 250 or more who, after having been employed by the district for three complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications shall, at the commencement of the succeeding school year be classified as and become a permanent employee of the district.

This subdivision shall apply only to probationary employees whose probationary period commenced prior to the 1983–84 fiscal year.

(b) Every employee of a school district of any type or class having an average daily attendance of 250 or more who, after having been employed by the district for two complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications shall, at the commencement of the succeeding school year be classified as and become a permanent employee of the district.

The governing board shall notify the employee, on or before March 15 of the employee's second complete consecutive school year of employment by the district in a position or positions requiring certification qualifications, of the decision to reelect or not reelect the employee for the next succeeding school year to the position. In the event that the governing board does not give notice pursuant to this section on or before March 15, the employee shall be deemed reelected for the next succeeding school year.

This subdivision shall apply only to probationary employees whose probationary period commenced during the 1983–84 fiscal year or

any fiscal year thereafter.

44929.22. At the discretion of the governing board of a district with 60,000 average daily attendance or more every employee of the district who, after having been employed by the district for two consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications may, at the commencement of the succeeding school year, be classified as and become a permanent employee of the district. If the board is the governing board of more than one district, it may exercise the discretionary power given it by this section in each district under its jurisdiction, whether or not each of the districts has 60,000 average daily attendance.

This section shall apply only to probationary employees whose probationary period commenced prior to the 1983–84 fiscal year.

44929.23. Every employee of a school district of any type or class having an average daily attendance of less than 250 pupils, who, after having been employed by the district for three complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications, may be classified by the governing board of the district as a permanent employee of the district. If the classification is not made the employee shall not attain permanent status and may be reelected from year to year thereafter without becoming a permanent employee until the classification is made.

44929.24. (a) Any school district maintaining grades 9 to 12, inclusive, or maintaining grades 6, 7, and 8 in a departmentalized junior high school, shall classify as a probationary employee of the district any person while that person is employed as a teacher trainee pursuant to Section 44830.3 and any person who has completed two years of service in the district as a teacher trainee pursuant to Section 44830.3 and is reelected for the next succeeding school year to a position requiring certification qualifications.

The governing board may dismiss or suspend employees classified as probationary employees pursuant to this subdivision in accordance with the procedures specified in Section 44948.3.

(b) Every employee of a school district maintaining grades 9 to 12, inclusive, or maintaining grades 6, 7, and 8 in a departmentalized junior high school, who, after having been employed as a probationary employee by the district for the number of years prescribed as a teacher trainee pursuant to Sections 44325 and 44830.3 plus one year in a position requiring certification qualifications shall, at the commencement of the succeeding school year, be classified as and become a permanent employee of the district.

The governing board shall notify the employee, on or before March 15 of the employee's third complete consecutive school year of employment by the district as a probationary employee, of the

decision to reelect or not reelect the employee for the next succeeding school year to such a position. In the event the governing board does not give notice pursuant to this section on or before March 15, the employee shall be deemed reelected for the next succeeding school year.

44929.25. When a teacher of classes for adults serves sufficient probationary time as provided in Sections 44929.20 to 44929.23, inclusive, and Section 44908 to be eligible for election to permanent classification in that district, his or her tenure shall be for the service equivalent to the average number of hours per week that he or she has served during his or her probationary years. In no case shall the employee be classified as permanent for more than one full-time assignment. The service for which the person has acquired tenure may be reduced in conformity with Sections 44955 and 44956.

Notwithstanding any other provision to the contrary, in a district that has, or in a district that is one of two or more districts governed by governing boards of identical personnel that have a combined average daily attendance of 400,000 or more, as shown by the annual report of the county superintendent of schools for the preceding fiscal year, no person who is assigned 10 hours or less a week in adult classes in the district shall be eligible for election to permanent classification in the district on account of the assignment in adult classes.

Notwithstanding any other provision to the contrary, any person who is employed to teach adults for not more than 60 percent of the hours per week considered a full-time assignment for permanent employees having comparable duties shall be classified as a temporary employee, and shall not become a probationary employee under the provisions of Section 44954.

44929.26. Nothing in Sections 44929.20 to 44929.23, inclusive, shall be construed to give permanent classification to a person in the adult school who is already classified as a permanent employee in the day school. In case a teacher obtains permanent classification in the evening school and later is eligible for the same classification in the day school by reason of having served the probationary period therein, he or she shall be given his or her choice as to which he or she shall take.

Notwithstanding any other provision to the contrary, service in the evening school shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee in the day school, except service in the evening school rendered by a person rendering services in the day school who is directed or specifically requested by the school district to render services in the evening school either in addition to, or instead of, rendering service in the day school. Service in the day school shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee in the evening school, except service in the day school rendered by a person rendering services in

the evening school who is directed or specifically requested by the school district to render service in the day school either in addition to, or instead of, rendering service in the evening school.

44929.27. No employee of a school district or districts, in which the average daily attendance of all the districts combined is in excess of 200,000, governed by the same governing board shall hereafter acquire permanent certificated tenure or permanent noncertificated status, or a combination of tenure and status, for more than one full-time position. Any employee who hereafter acquires any combination of permanent certificated tenure or permanent noncertificated status or both which exceeds that for one full-time position shall have a choice which tenure or status to retain so long as that retained does not exceed one full-time position.

It is the intent of this section that an employee holding permanent certificated tenure or permanent noncertificated status for a full-time position may not have permanent tenure or status protection for any additional time in either a certificated or a noncertificated position under any such school district governed by the same governing board.

44929.28. The governing board of a school district that employs in a position requiring certification qualifications any person who has become a permanent certificated employee in any school district may employ that person as a permanent certificated employee.

44929.29. Nothing in this article shall be construed as affecting the classification of any employee as it existed on September 13, 1941.

SEC. 381. Section 44978.5 of the Education Code is repealed.

SEC. 382. Section 44981 of the Education Code is amended to read:

44981. Any days of leave of absence for illness or injury allowed pursuant to Section 44978 may be used by the employee, at his or her election, in cases of personal necessity. The governing board of each school district and each office of county superintendent of schools shall adopt rules and regulations requiring and prescribing the manner of proof of personal necessity for purposes of this section.

The employee shall not be required to secure advance permission for leave taken for any of the following reasons:

(a) Death or serious illness of a member of his or her immediate family.

(b) Accident, involving his or her person or property, or the person or property of a member of his or her immediate family.

SEC. 383. Section 45021 of the Education Code is repealed.

SEC. 384. Section 45026 of the Education Code is repealed.

SEC. 385. Section 45027 of the Education Code is repealed.

SEC. 386. Section 45053 of the Education Code is repealed.

SEC. 387. Section 45054 of the Education Code is repealed.

SEC. 388. Section 45133 of the Education Code is repealed.

SEC. 388.5. Section 45303 of the Education Code is amended to read:

45303. In addition to any causes for suspension or dismissal which

are designated by rule of the commission, employees in the classified service shall be suspended and dismissed in the manner provided by law for any one or more of the following causes:

(a) Knowing membership by the employee in the Communist Party.

(b) Conduct specified in Section 1028 of the Government Code.

SEC. 389. Section 46013.9 of the Education Code is repealed.

SEC. 390. Section 46116 of the Education Code is repealed.

SEC. 391. Section 46143 of the Education Code is repealed.

SEC. 392. Section 46180.1 of the Education Code is repealed.

SEC. 393. 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 that 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) In any fiscal year, each school district that receives an apportionment pursuant to subdivision (a) for average daily attendance in grades 9 to 12, inclusive, shall offer a program of instruction that allows each student to receive at least 24 course years of instruction, or the equivalent, during 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 that receives an apportionment pursuant to subdivision (a) in the 1984–85 fiscal year and that 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 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 (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 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 (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. 393.1. Section 46307 is added to the Education Code, to read:

46307. Attendance of individuals with exceptional needs, identified pursuant to Chapter 4 (commencing with Section 56300) of Part 30, enrolled in a special day class or given instruction individually or in a home, hospital, or licensed children's institution who attend school for either the same number of minutes that constitutes a minimum schoolday pursuant to Chapter 2 (commencing with Section 46100), or for the number of minutes of attendance specified in that pupil's individualized education program developed pursuant to Article 3 (commencing with Section 56340) of Chapter 4 of Part 30, whichever is less, shall constitute a day of attendance. The average daily attendance of all individuals with exceptional needs shall be computed by dividing the total number of days of attendance of the pupils by the number of days on which the instruction was given by the district or county office of education.

SEC. 393.5. Section 46307.1 is added to the Education Code, to read:

46307.1. The computation of average daily attendance pursuant to this chapter shall not include the attendance of minors between the ages of 18 months and three years, inclusive, enrolled in programs operated by a county superintendent of schools who are physically handicapped, deaf or hard of hearing, or have speech disorders or speech defects.

SEC. 394. Section 46320 of the Education Code is amended to read:

46320. The units of average daily attendance in the elementary schools of a district for a fiscal year shall be computed by dividing the total number of days of pupils' attendance in all kindergarten and elementary schools and classes of the district during the fiscal year by the number of days school was actually taught in the regular day elementary schools of the district during the fiscal year, plus the units of average daily attendance credited to the district on account of the education of seventh and eighth grade pupils in a junior high school pursuant to Section 46333.

SEC. 395. Section 46360 of the Education Code is amended to read:

46360. The average daily attendance of individuals with exceptional needs given instruction by a county superintendent of schools and whose attendance is credited to the county school service fund, shall be computed by dividing the total days of attendance of such pupils during the fiscal year by 175.

SEC. 396. Section 46361 of the Education Code is repealed.

SEC. 397. Section 46362 of the Education Code is repealed.

SEC. 398. Section 46363 of the Education Code is repealed.

SEC. 399. Section 46365 of the Education Code is repealed.

SEC. 400. Section 46366 of the Education Code is repealed.

SEC. 401. Section 46367 of the Education Code is repealed.

SEC. 402. Chapter 4 (commencing with Section 46500) of Part 26 of the Education Code is repealed.

SEC. 403. Section 48000 of the Education Code is amended to read:

48000. (a) A child shall be admitted to a kindergarten in any term during the first school month of the term, if he or she is of the age prescribed. For good cause the governing board of a school district may permit a child of proper age to be admitted to a class after the first school month of the school term.

If there is but one term during the school year, the child shall have his or her fifth birthday on or before December 2nd of the current school year. If there are two terms maintained during the school year, the child shall have his or her fifth birthday on or before December 2nd of the current school year, before he or she may be admitted in the first term of the school year, or have his or her fifth birthday on or before May 2nd of the current school year, before he or she may be admitted in the second term in any school year.

A child who will have his or her fifth birthday on or before December 2nd may be admitted to the prekindergarten summer program maintained by the school district for pupils who will be enrolling in kindergarten in September.

(b) The governing board of any school district maintaining one or more kindergartens may admit to a kindergarten a child having attained the age of five years at any time during the school year with the approval of the parent or guardian. The governing board shall provide the parent or guardian with information as to the advantages and disadvantages and any other explanatory information as to the effects of this early admittance.

SEC. 404. Section 48001 of the Education Code is repealed.

SEC. 405. Section 48010 of the Education Code is amended to read:

48010. A child shall be admitted to the first grade of an elementary school during the first month of any school term if he or she is of the age prescribed in this section. For good cause, the governing board of a school district may permit a child of proper age to be admitted to a class after the first school month of the school term.

If there is but one term during the school year, the child shall have his or her sixth birthday on or before December 2nd, of the current school year. If there are two terms maintained during the school year, the child shall have his or her sixth birthday on or before December 2nd, of the current year, before he or she may be admitted in the first term of the school year, or have his or her sixth birthday on or before May 2nd, of the current school year, before he or she may be admitted in the second term of any school year.

SEC. 406. Section 48012 of the Education Code is amended and renumbered to read:

46621. The children residing in any newly formed district, in any district whose boundaries have been changed, or in any joint district, may attend the school in the district or districts from which the newly formed district was constituted, until the first day of July next succeeding the formation or change

SEC. 407. Section 48013 of the Education Code is repealed.

SEC. 408. Section 48020 of the Education Code is repealed.

SEC. 409. Section 48030 of the Education Code is repealed.

SEC. 410. Section 48040 of the Education Code is repealed.

SEC. 411. Section 48200 of the Education Code is amended to read:

48200. Each person between the ages of 6 and 18 years not exempted under the provisions of this chapter or Chapter 3 (commencing with Section 48400) is subject to compulsory full-time education. Each person subject to compulsory full-time education and each person subject to compulsory continuation education not exempted under the provisions of Chapter 3 (commencing with Section 48400) shall attend the public full-time day school or continuation school or classes and for the full time designated as the length of the schoolday by the governing board of the school district in which the residency of either the parent or legal guardian is located and each parent, guardian, or other person having control or charge of the pupil shall send the pupil to the public full-time day school or continuation school or classes and for the full time designated as the length of the schoolday by the governing board of the school district in which the residence of either the parent or legal guardian is located.

Unless otherwise provided for in this code, a pupil shall not be enrolled for less than the minimum schoolday established by law.

SEC. 412. Section 48205 of the Education Code is amended to read:

48205. Notwithstanding Section 48200, a pupil shall be excused from school for justifiable personal reasons, including, but not limited to, an appearance in court, observance of a holiday or ceremony of his or her religion, attendance at religious retreats, or an employment conference, when the pupil's absence has been requested in writing by the parent or guardian and approved by the principal or a designated representative pursuant to uniform standards established by the governing board.

A pupil absent from school under this section shall be allowed to complete all assignments and tests missed during the absence that can be reasonably provided and, upon satisfactory completion, shall be given full credit therefor. The teacher of any class from which a pupil is absent shall determine, pursuant to the regulations of the governing board of the school district, what assignments the pupil shall make up and in what period of time the pupil shall complete those assignments. The tests and assignments shall be reasonably equivalent to, but not necessarily identical to, the tests and assignments that the pupil missed during the absence.

For purposes of this section, attendance at religious retreats shall not exceed four hours per semester.

Absences pursuant to this section shall be deemed to be absences in computing average daily attendance and shall not generate state apportionment payments, except as otherwise provided by Article 1 (commencing with Section 46000) of Chapter 1 of Part 26.

SEC. 413. Section 48227 of the Education Code is repealed.

SEC. 414. Section 48228 of the Education Code is repealed.

SEC. 415. Section 48229 of the Education Code is repealed.

SEC. 416. Article 3 (commencing with Section 48650) of Chapter 4 of Part 27 of the Education Code is repealed.

SEC. 417. Section 48810 of the Education Code is repealed.

SEC. 418. Section 48980 of the Education Code is amended to read:

48980. (a) At the beginning of the first semester or quarter of the regular school term, the governing board of each school district shall notify the parent or guardian of its minor pupils regarding the right or responsibility of the parent or guardian under Sections 35291, 46014, 48205, 48207, 48208, 49403, 49423, 49451, 49472, 51240, and 51550, and Article 3 (commencing with Section 56030) of Chapter 1 of Part 30.

(b) The notification shall also advise the parent or guardian of the availability of individualized instruction as prescribed by Section 48206.3, and of the program prescribed by Article 9 (commencing with Section 49510) of Chapter 9.

(c) School districts which elect to provide a fingerprinting program pursuant to Article 10 (commencing with Section 32390) shall inform parents or guardians of the program as specified in Section 32390.

SEC. 419. Section 49401 of the Education Code is repealed.

SEC. 420. Section 49404 of the Education Code is repealed.

SEC. 421. Section 49420 of the Education Code is repealed.

SEC. 422. Section 49421 of the Education Code is repealed.

SEC. 423. Article 3 (commencing with Section 49440) of Chapter 9 of Part 27 of the Education Code is repealed.

SEC. 424. Section 49453 of the Education Code is repealed.

SEC. 425. Section 49502 of the Education Code is repealed.

SEC. 426. Chapter 10 (commencing with Section 49600) is added to Part 27 of the Education Code, to read:

CHAPTER 10. EDUCATIONAL COUNSELING

49600. (a) The governing board of any school district may provide a comprehensive educational counseling program for all pupils enrolled in the schools of the district.

For purposes of this section, "educational counseling" means specialized services provided by a school counselor possessing a valid credential with a specialization in pupil personnel services who is assigned specific times to directly counsel pupils.

(b) Educational counseling shall include, but not be limited to, all of the following:

(1) Academic counseling, in which pupils receive counseling in the following areas:

(A) Establishment and implementation with parental involvement of the pupil's immediate and long-range educational plans.

(B) Optimizing progress towards achievement of proficiency standards.

(C) Completion of the required curriculum in accordance with the pupil's needs, abilities, interests, and aptitudes.

(D) Academic planning for access and success in higher education programs including advisement on courses needed for admission to public colleges and universities, standarized admissions tests, and financial aid.

(2) Career and vocational counseling, in which pupils are assisted in doing all of the following:

(A) Planning for the future.

(B) Becoming aware of their career potential.

(C) Developing realistic perceptions of work.

(D) Relating to the work world.

(3) Personal and social counseling, in which pupils receive counseling pertaining to interpersonal relationships for the purpose of promoting the development of their academic abilities, careers and vocations, personalities, and social skills.

(c) Nothing in this section shall be construed as prohibiting persons participating in an organized advisory program approved by the governing board of a school district, and supervised by a school district counselor, from advising pupils pursuant to the organized advisory program.

(d) Notwithstanding any provisions of this section to the contrary, any person who is performing these counseling services pursuant to law authorizing the performance thereof in effect before January 1, 1987, shall be authorized to continue to perform those services on and after that date without compliance with the additional requirements imposed by this section.

49601. (a) The State Department of Education shall, no later than December 31, 1986, develop a career guidance model for science and technology for use in school district counseling programs, and shall make the model available to the governing boards of all school districts in this state.

(b) The model shall be designed to provide information for use in career guidance offered to pupils in grades 7 through 12, regarding the potential for employment, educational requirements, and other matters pertaining to careers in the fields of science and technology. The purposes of the model shall be to objectively acquaint pupils with the option of pursuing careers in those fields, and to advise them in a timely manner of the preparation necessary to undertaking those careers.

(c) In developing the model, the State Department of Education shall employ materials and other resources that are available from public and private organizations, to the extent appropriate for the purposes of this section.

49602. Any information of a personal nature disclosed by a pupil 12 years of age or older in the process of receiving counseling from a school counselor as specified in Section 49600 is confidential. Any information of a personal nature disclosed to a school counselor by a parent or guardian of a pupil who is 12 years of age or older and who is in the process of receiving counseling from a school counselor as specified in Section 49600 is confidential. The information shall not become part of the pupil record, as defined in subdivision (b) of Section 49061, without the written consent of the person who disclosed the confidential information. The information shall not be revealed, released, discussed, or referred to, except as follows:

(a) Discussion with psychotherapists as defined by Section 1010 of the Evidence Code, other health care providers, or the school nurse, for the sole purpose of referring the pupil for treatment.

(b) Reporting of child abuse or neglect as required by Article 2.5 (commencing with Section 11165) of Chapter 2 of Title 1 of Part 4 of the Penal Code.

(c) Reporting information to the principal or parents of the pupil when the school counselor has reasonable cause to believe that disclosure is necessary to avert a clear and present danger to the health, safety, or welfare of the pupil or the following other persons living in the school community: administrators, teachers, school staff, parents, pupils, and other school community members.

(d) Reporting information to the principal, other persons inside the school, as necessary, the parents of the pupil, and other persons outside the school when the pupil indicates that a crime, involving the likelihood of personal injury or significant or substantial property losses, will be or has been committed.

(e) Reporting information to one or more persons specified in a written waiver after this written waiver of confidence is read and signed by the pupil and preserved in the pupil's file.

Notwithstanding the provisions of this section, a school counselor shall not disclose information deemed to be confidential pursuant to this section to the parents of the pupil when the school counselor has reasonable cause to believe that the disclosure would result in a clear and present danger to the health, safety, or welfare of the pupil.

Notwithstanding the provisions of this section, a school counselor shall disclose information deemed to be confidential pursuant to this section to law enforcement agencies when ordered to do so by order of a court of law, to aid in the investigation of a crime, or when ordered to testify in any administrative or judicial proceeding.

Nothing in this section shall be deemed to limit access to pupil records as provided in Section 49076.

Nothing in this section shall be deemed to limit the counselor from conferring with other school staff, as appropriate, regarding

modification of the pupil's academic program.

It is the intent of the Legislature that counselors use the privilege of confidentiality under this section to assist the pupil whenever possible to communicate more effectively with parents, school staff, and others.

No person required by this section to keep information discussed during counseling confidential shall incur any civil or criminal liability as a result of keeping that information confidential.

As used in this section, "information of a personal nature" does not include routine objective information related to academic and career counseling.

SEC. 427. Section 51001 of the Education Code is repealed.

SEC. 428. Section 51201 of the Education Code is repealed.

SEC. 429. Section 51204.5 is added to the Education Code, to read:

51204.5. Instruction in social sciences shall include the early history of California and a study of the role and contributions of both men and women, black Americans, American Indians, Mexicans, Asians, Pacific Island people, and other ethnic groups to the economic, political, and social development of California and the United States of America, with particular emphasis on portraying the role of these groups in contemporary society.

SEC. 430. Section 51210 of the Education Code is amended to read:

51210. The adopted course of study for grades 1 through 6 shall include instruction, beginning in grade 1 and continuing through grade 6, in the following areas of study:

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

(b) Mathematics, including concepts, operational skills, and problem solving.

(c) 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; 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; contemporary issues; and the wise use of natural resources.

(d) Science, including the biological and physical aspects, with emphasis on the processes of experimental inquiry and on man's place in ecological systems.

(e) Fine arts, including instruction in the subjects of art and music, aimed at the development of aesthetic appreciation and the skills of creative expression.

(f) Health, including instruction in the principles and practices of

individual, family, and community health.

(g) Physical education, with emphasis upon the physical activities for the pupils that may be conducive to health and vigor of body and mind, for a total period of time of not less than 200 minutes each 10 schooldays, exclusive of recesses and the lunch period.

(h) Other studies that may be prescribed by the governing board.

SEC. 431. Section 51211 of the Education Code is repealed.

SEC. 432. Section 51213 of the Education Code is repealed.

SEC. 433. Section 51227 of the Education Code is repealed.

SEC. 434. Section 51700 of the Education Code is repealed.

SEC. 435. Section 51701 of the Education Code is repealed.

SEC. 436. Section 51710 of the Education Code is repealed.

SEC. 437. Section 51830 of the Education Code is repealed.

SEC. 438. Section 51831 of the Education Code is repealed.

SEC. 439. Section 51832 of the Education Code is repealed.

SEC. 440. Section 51833 of the Education Code is amended to read:

51833. (a) The Superintendent of Public Instruction shall, with the approval of the State Board of Education, plan and develop a one-semester instructional program entitled consumer economics for use in schools maintaining any of grades 7 to 12, inclusive. When completed, the program shall be made available to all school districts and schools with grades 7 to 12, inclusive.

(b) The instructional program shall include, but not be limited to, the following elements:

(1) Fundamentals of banking for personal use.

(2) Elementary contracts.

(3) Consumer guides to purchasing.

(4) Uses and costs of credit.

(5) Types and costs of insurance.

(6) Forms of governmental taxation.

SEC. 441. Section 52001 of the Education Code is amended to read:

52001. As used in this chapter:

(a) "Other school personnel" means persons who work directly and on a regular basis with pupils, including administrative employees, as defined in subdivision (e) of Section 33150, pupil services employees, as defined in subdivision (c) of Section 33150, and classified employees.

(b) "Community member" means a person who is neither in the employment of the school district, nor the parent or guardian of a pupil attending the participating school.

(c) "School improvement plan" means a plan that meets the requirements of Section 52014 developed at an individual school and submitted to a local governing board for approval.

(d) "School improvement program" means a program developed pursuant to an approved school improvement plan.

(e) "District master plan" means a plan that meets the requirements of subdivision (b) of Section 52034.

(f) "Planning grant" means allowances as described in Section 52046 to develop a school improvement plan.

(g) "Implementation grant" means allowances as described in Section 52046 to implement school improvement plans.

(h) "Participating schools" means schools that participate in the school improvement program pursuant to this chapter.

(i) "Elementary school" means any school maintaining two or more of grades 1 to 6, inclusive.

(j) "Secondary school" means any school that is not an elementary school.

(k) "Parity" means equal numbers.

SEC. 442. Section 52035 of the Education Code is amended to read:

52035. The Superintendent of Public Instruction shall:

(a) Assist districts and schools, upon request, to design, implement or evaluate school improvement programs authorized by this chapter.

(b) Ensure that procedures utilized by governing boards to approve and evaluate school improvement programs and to terminate allowances are consistent with this chapter and with standards and criteria adopted by the State Board of Education.

(c) Apportion district allowances in accordance with the provisions of Article 4 (commencing with Section 52045).

(d) Identify effective practices regarding, but not limited to, the objectives described in Sections 52015, 52016, and 52017 and disseminate such information to all school districts and county superintendents of schools.

(e) Conduct program and fiscal reviews to:

(1) Ensure that funds allocated pursuant to this chapter are expended for the purposes intended.

(2) Provide information helpful to local schools in meeting their school improvement objectives.

(3) Provide information to the state board regarding program implementation to be used in decisions regarding program expansion to other schools. Information regarding program implementation at a given school shall not be used in decisions regarding program expansion until the school has participated in the school improvement program for at least one and one-half school years. The superintendent shall recognize diversity in school improvement objectives and implementation strategies. In no case shall the review process be used to impose or prohibit a particular instructional program.

The majority of persons participating in the review shall be persons who are not in the employment of the district under review.

(f) Give priority in scheduling the reviews to districts and schools that have been least successful in meeting the objectives of their plans.

(g) Ensure, insofar as is practicable, that secondary schools participating in the school improvement program represent the

geographic and socioeconomic diversity of secondary schools.

SEC. 443. Section 52043 of the Education Code is repealed.

SEC. 444. Section 52380 of the Education Code is repealed.

SEC. 445. Section 52463 of the Education Code is repealed.

SEC. 446. Section 52500 of the Education Code is amended to read:

52500. Adult schools and evening high schools shall consist of classes for adults. Minors may be admitted to those classes pursuant to board policy.

SEC. 447. Section 52857 of the Education Code is amended to read:

52857. The district governing board shall determine the portion of the district's grant pursuant to Chapter 8 (commencing with Section 52200) of Part 28 that shall be allocated to the school for inclusion in the school budget developed pursuant to subdivision (f) of Section 52853.

SEC. 448. Section 54004.7 of the Education Code is amended to read:

54004.7. The intradistrict allocation plan shall assure adequate support to any school to provide programs appropriate to the educational needs of limited- and non-English-speaking pupils as required by Section 52165 except that programs funded under Article 3 (commencing with Section 52160) of Chapter 7 of Part 28 in fiscal year 1978–79 in grades 7 to 12, inclusive, shall continue to receive appropriate funding if the governing board determines that the program is of sufficient quality to warrant the funding.

SEC. 449. Section 54030 of the Education Code is repealed.

SEC. 450. Section 54301 of the Education Code is amended to read:

54301. The programs provided for by this chapter shall be afforded for pupils in grades 1 to 12, inclusive. The programs shall be administered under the direction of the Superintendent of Public Instruction and pursuant to rules and regulations of the State Board of Education that may be adopted to implement the provisions of this chapter. The rules and regulations of the State Board of Education shall prescribe minimum standards and criteria for all programs, and shall provide for the submission of periodic reports by all school districts participating in programs.

The programs authorized by this chapter may be consolidated or conducted in conjunction with other mathematics programs being conducted in the public schools, if the Superintendent of Public Instruction determines that evaluation of the programs authorized by this chapter is not rendered impracticable.

Mathematics specialists to be employed pursuant to Section 54317 shall be selected by the school districts based upon a list of teachers of proven mathematical attainment, submitted by the Regents of the University of California.

SEC. 451. Section 54424 of the Education Code is repealed.

SEC. 452. Section 54487 of the Education Code is repealed.

SEC. 453. Section 54659 of the Education Code is amended to read:

54659. This article applies only to public high schools.

SEC. 456. Section 56027 of the Education Code is amended to read:

56027. "Local plan" means a plan that meets the requirements of Chapter 3 (commencing with Section 56200) and that is submitted by a school district, special education local plan area, or county office.

SEC. 457. Section 56032 of the Education Code is repealed.

SEC. 458. Section 56100 of the Education Code is amended to read:

56100. The State Board of Education shall do all the following:

(a) Adopt rules and regulations necessary for the efficient administration of this part.

(b) Adopt criteria and procedures for the review and approval by the board of local plans. Local plans may be approved for up to three years.

(c) Adopt size and scope standards for use by districts, special education local plan areas, and county offices, pursuant to subdivision (a) of Section 56170.

(d) Provide review, upon petition, to any district, special education local plan area, or county office that appeals a decision made by the department which affects its providing services under this part except a decision made pursuant to Chapter 5 (commencing with Section 56500).

(e) Review and approve a program evaluation plan for special education programs provided by this part in accordance with Chapter 6 (commencing with Section 56600).

(f) Recommend to the Commission on Teacher Credentialing the adoption of standards for the certification of professional personnel for special education programs conducted pursuant to this part.

(g) Adopt regulations to provide specific procedural criteria and guidelines for the identification of pupils as individuals with exceptional needs.

(h) Adopt guidelines of reasonable pupil progress and achievement for individuals with exceptional needs. The guidelines shall be developed to aid teachers and parents in assessing an individual pupil's education program and the appropriateness of the special education services.

(i) In accordance with the requirements of federal law, adopt regulations for all educational programs for individuals with exceptional needs, including programs administered by other state or local agencies.

(j) Adopt uniform rules and regulations relating to parental due process rights in the area of special education.

(k) Perform the duties prescribed by Chapter 4.5 (commencing with Section 56450).

SEC. 459. Section 56101 of the Education Code is amended to read:

56101. (a) Any district, special education local plan area, county office, or public education agency as defined in Section 56500 may request the board to grant a waiver of any provision of this code or regulations adopted pursuant to any such provision if the waiver is necessary or beneficial to the content and implementation of the pupil's individualized education program and does not abrogate any right provided individuals with exceptional needs and their parents or guardians under Public Law 94-142, or to the compliance of a district, special education local plan area, or county office with Public Law 94-142, as amended, Section 504 of Public Law 93-112, as amended, and federal regulations relating thereto.

(b) The board may grant, in whole or in part, any such request when the facts indicate that failure to do so would hinder implementation of the pupil's individualized education program or compliance by a district, special education local plan area, or county office with federal mandates for a free, appropriate education for handicapped children.

SEC. 460. Section 56129 of the Education Code is amended to read:

56129. The superintendent shall maintain the state special schools in accordance with Part 32 (commencing with Section 59000) so that the services of those schools are coordinated with the services of the district, special education local plan area, or the county office.

SEC. 461. Section 56156 of the Education Code is amended to read:

56156. (a) Each court, regional center for the developmentally disabled, or public agency that engages in referring children to, or placing children in, licensed children's institutions shall report to the special education administrator of the district, special education local plan area, or county office in which the licensed children's institution is located any referral or admission of a child who is potentially eligible for special education.

(b) At the time of placement in a licensed children's institution or foster family home, each court, regional center for the developmentally disabled, or public agency shall identify the individual responsible for representing the interests of the child for educational and related services.

(c) Each person licensed by the state to operate a licensed children's institution, or his or her designee, shall notify the special education administrator of the district, special education local plan area, or county office in which the licensed children's institution is located of any child potentially eligible for special education who resides at the facility.

(d) The county office shall maintain a current list of licensed children's institutions located within the county and shall notify each district, special education local plan area, or county office within the county of the names of licensed children's institutions located in the geographical area covered by each local plan. The county office shall notify the director of each licensed children's institution of the

appropriate person to contact regarding individuals with exceptional needs.

SEC. 462. Section 56156.5 of the Education Code is amended to read:

56156.5. (a) Each district, special education local plan area, or county office shall be responsible for providing appropriate education to individuals with exceptional needs residing in licensed children's institutions and foster family homes located in the geographical area covered by the local plan.

(b) In multidistrict and district and county office local plan areas, local written agreements shall be developed, pursuant to subdivision (f) of Section 56220, to identify the public education entities that will provide the special education services.

(c) If there is no local agreement, special education services for individuals with exceptional needs residing in licensed children's institutions shall be the responsibility of the county office in the county in which the institution is located, if the county office is part of the special education local plan area, and special education services for individuals with exceptional needs residing in foster family homes shall be the responsibility of the district in which the foster family home is located. If a county office is not a part of the special education local plan area, special education services for individuals with exceptional needs residing in licensed children's institutions, pursuant to this subdivision, shall be the responsibility of the responsible local agency or other administrative entity of the special education local plan area. This program responsibility shall continue until the time local written agreements are developed pursuant to subdivision (f) of Section 56220.

SEC. 463. Section 56157 of the Education Code is amended to read:

56157. (a) In providing appropriate programs to individuals with exceptional needs residing in licensed children's institutions or foster family homes, the district, special education local plan area, or county office shall first consider services in programs operated by public education agencies for individuals with exceptional needs. If those programs are not appropriate, special education and related services shall be provided by contract with a nonpublic, nonsectarian school.

(b) If special education and related services are provided by contract with a nonpublic, nonsectarian school, or with a licensed children's institution under this article, the terms of the contract shall be developed in accordance with the provisions of Section 56366.

SEC. 464. Section 56159 of the Education Code is amended to read:

56159. If a district, special education local plan area, or county office does not make the placement decision of an individual with exceptional needs in a licensed children's institution or in a foster family home, the court, regional center for the developmentally

disabled, or public agency, excluding an education agency, placing the individual in the institution, shall be responsible for the residential costs and the cost of noneducation services of the individual.

SEC. 465. Section 56170 of the Education Code is amended to read:

56170. The governing board of a school district shall elect to do one of the following:

(a) If of sufficient size and scope, under standards adopted by the board, submit to the superintendent, in accordance with Section 56200, a local plan for the education of all individuals with exceptional needs residing in the district.

(b) In conjunction with one or more districts, submit to the superintendent, in accordance with Section 56200, a local plan for the education of individuals with exceptional needs residing in those districts. The plan shall, through joint powers agreements or other contractual agreements, include all the following:

(1) Provision of a governance structure and any necessary administrative support to implement the plan.

(2) Establishment of a system for determining the responsibility of participating agencies for the education of each individual with exceptional needs residing within the special education local plan area.

(3) Designation of a responsible local agency or alternative administrative entity to perform such functions as the receipt and distribution of regionalized services funds, provision of administrative support, and coordination of the implementation of the plan. Any participating agency may perform any of the services required by the plan.

(c) Join with the county office, to submit to the superintendent a plan in accordance with Section 56200 to assure access to special education and services for all individuals with exceptional needs residing in the geographic area served by the plan. The county office shall coordinate the implementation of the plan, unless otherwise specified in the plan. The plan shall, through contractual agreements, include all of the following:

(1) Establishment of a system for determining the responsibility of participating agencies for the education of each individual with exceptional needs residing within the geographical area served by the plan.

(2) Designation of the county office, of a responsible local agency, or of any other administrative entity to perform such functions as the receipt and distribution of regionalized services funds, provision of administrative support, and coordination of the implementation of the plan. Any participating agency may perform any of these services required by the plan.

(d) The service area covered by the local plan developed under subdivision (a), (b), or (c) shall be known as the special education local plan area.

(e) Nothing in this section shall be construed to limit the authority of any county office and any school district or group of school districts to enter into contractual agreements for services relating to the education of individuals with exceptional needs.

SEC. 466. Section 56172 of the Education Code is amended to read:

56172. (a) Each county office and district governing board shall have authority over the programs it directly maintains, consistent with the local plan submitted pursuant to Section 56170. In counties with more than one special education local plan area for which the county office provides services, relevant provisions of contracts between the county office and its employees governing wages, hours, and working conditions shall supersede like provisions contained in a plan submitted under Section 56170.

(b) Any county office or district governing board may provide for the education of individual pupils in special education programs maintained by other districts or counties, and may include within their special education programs pupils who reside in other districts or counties. Section 46600 shall apply to interdistrict attendance agreements for programs conducted pursuant to this part.

SEC. 467. Section 56194 of the Education Code is amended to read:

56194. The community advisory committee shall have the authority and fulfill the responsibilities that are defined for it in the local plan. The responsibilities shall include, but need not be limited to, all the following:

(a) Advising the policy and administrative entity of the district, special education local plan area, or county office, regarding the development, amendment, and review of the local plan. The entity shall review and consider comments from the community advisory committee.

(b) Recommending annual priorities to be addressed by the plan.

(c) Assisting in parent education and in recruiting parents and other volunteers who may contribute to the implementation of the plan.

(d) Encouraging community involvement in the development and review of the local plan.

(e) Supporting activities on behalf of individuals with exceptional needs.

(f) Assisting in parent awareness of the importance of regular school attendance.

SEC. 468. Section 56200 of the Education Code is amended to read:

56200. Each local plan submitted to the superintendent under this part shall contain all the following:

(a) Compliance assurances, including general compliance with Public Law 94-142, Section 504 of Public Law 93-112, and the provisions of this part.

(b) Description of services to be provided by each district and

county office. This description shall demonstrate that all individuals with exceptional needs shall have access to services and instruction appropriate to meet their needs as specified in their individualized education programs.

(c) (1) Description of the governance and administration of the plan.

(2) Multidistrict plans, submitted pursuant to subdivision (b) or (c) of Section 56170, shall specify the responsibilities of each participating county office and district governing board in the policymaking process, the responsibilities of the superintendents of each participating district and county in the implementation of the plan, and the responsibilities of district and county administrators of special education in coordinating the administration of the local plan.

(d) Copies of joint powers agreements or contractual agreements, as appropriate, for districts and counties that elect to enter into those agreements pursuant to subdivision (b) or (c) of Section 56170.

(e) An annual budget plan to allocate instructional personnel service units, support services, and transportation services directly to entities operating those services and to allocate regionalized services funds to the county office, responsible local agency, or other alternative administrative structure. The annual budget plan shall be adopted at a public hearing held by the district, special education local plan area, or county office, as appropriate. Notice of this hearing shall be posted in each school in the local plan area at least 15 days prior to the hearing. The annual budget plan may be revised during the fiscal year, and these revisions may be submitted to the superintendent as amendments to the allocations set forth in the plan. However, the revisions shall, prior to submission to the superintendent, be approved according to the policymaking process, established pursuant to paragraph (2) of subdivision (c).

(f) Verification that the plan has been reviewed by the community advisory committee and that the committee had at least 30 days to conduct this review prior to submission of the plan to the superintendent.

(g) Description of the identification, referral, assessment, instructional planning, implementation, and review in compliance with Chapter 4 (commencing with Section 56300).

(h) A description of the process being utilized to meet the requirements of Section 56303.

SEC. 469. Section 56220 of the Education Code is amended to read:

56220. In addition to the provisions required to be included in the local plan pursuant to Section 56200, each special education local plan area that submits a local plan pursuant to subdivision (b) of Section 56170 and each county office that submits a local plan pursuant to subdivision (c) of Section 56170 shall develop written agreements to be entered into by entities participating in the plan. The agreements need not be submitted to the superintendent. These agreements shall include, but not be limited to, the following:

(a) A coordinated identification, referral, and placement system pursuant to Chapter 4 (commencing with Section 56300).

(b) Procedural safeguards pursuant to Chapter 5 (commencing with Section 56500).

(c) Regionalized services to local programs, including, but not limited to, all the following:

(1) Program specialist service pursuant to Section 56368.

(2) Personnel development, including training for staff, parents, and members of the community advisory committee pursuant to Article 3 (commencing with Section 56240).

(3) Evaluation pursuant to Chapter 6 (commencing with Section 56600).

(4) Data collection and development of management information systems.

(5) Curriculum development.

(6) Provision for ongoing review of programs conducted, and procedures utilized, under the local plan, and a mechanism for correcting any identified problem.

(d) A description of the process for coordinating services with other local public agencies that are funded to serve individuals with exceptional needs.

(e) A description of the process for coordinating and providing services to individuals with exceptional needs placed in public hospitals, proprietary hospitals, and other residential medical facilities pursuant to Article 5.5 (commencing with Section 56167) of Chapter 2.

(f) A description of the process for coordinating and providing services to individuals with exceptional needs placed in licensed children's institutions and foster family homes pursuant to Article 5 (commencing with Section 56155) of Chapter 2.

(g) A description of the process for coordinating and providing services to individuals with exceptional needs placed in juvenile court schools or county community schools pursuant to Section 56150.

SEC. 470. Section 56240 of the Education Code is amended to read:

56240. Staff development programs shall be provided for regular and special education teachers, administrators, certificated and classified employees, volunteers, community advisory committee members and, as appropriate, members of the district and county governing boards. The programs shall be coordinated with other staff development programs in the district, special education local plan area, or county office, including school level staff development programs authorized by state and federal law.

SEC. 471. Section 56242 of the Education Code is amended to read:

56242. A district, special education local plan area, or county office, shall receive its full average daily attendance apportionment during the regular school year to conduct staff development

programs pursuant to this article. The time shall not exceed two days each year for each participating staff member. However, no district, special education local plan area, or county office shall receive average daily attendance reimbursement under this section if it is reimbursed pursuant to Chapter 1147 of the Statutes of 1972, Chapter 3.1 (commencing with Section 44670) of Part 25, or Chapter 6 (commencing with Section 52000) of Part 28.

SEC. 472. Section 56300 of the Education Code is amended to read:

56300. Each district, special education local plan area, or county office shall actively and systematically seek out all individuals with exceptional needs, ages 0 through 21 years, including children not enrolled in public school programs, who reside in the district or are under the jurisdiction of a special education local plan area or a county office.

SEC. 473. Section 56301 of the Education Code is amended to read:

56301. Each district, special education local plan area, or county office shall establish written policies and procedures for a continuous child-find system which addresses the relationships among identification, screening, referral, assessment, planning, implementation, review, and the triennial assessment. The policies and procedures shall include, but need not be limited to, written notification of all parents of their rights under this chapter, and the procedure for initiating a referral for assessment to identify individuals with exceptional needs.

SEC. 474. Section 56302 of the Education Code is amended to read:

56302. Each district, special education local plan area, or county office shall provide for the identification and assessment of an individual's exceptional needs, and the planning of an instructional program to best meet the assessed needs. Identification procedures shall include systematic methods of utilizing referrals of pupils from teachers, parents, agencies, appropriate professional persons, and from other members of the public. Identification procedures shall be coordinated with school site procedures for referral of pupils with needs that cannot be met with modification of the regular instructional program.

SEC. 475. Section 56322 of the Education Code is amended to read:

56322. The assessment shall be conducted by persons competent to perform the assessment, as determined by the school district, county office, or special education local plan area.

SEC. 476. Section 56328 of the Education Code is amended to read:

56328. Notwithstanding the provisions of this chapter, a district, special education local plan area, or county office may utilize a school site level and a regional level service, as provided for under Section 56336.2 as it read immediately prior to the operative date of this

section, to provide the services required by this chapter.

SEC. 477. Section 56340 of the Education Code is amended to read:

56340. Each district, special education local plan area, or county office shall initiate and conduct meetings for the purposes of developing, reviewing, and revising the individualized education program of each individual with exceptional needs.

SEC. 478. Section 56341 of the Education Code is amended to read:

56341. (a) Each meeting to develop, review, or revise the individualized education program of an individual with exceptional needs, shall be conducted by an individualized education program team.

(b) The individualized education program team shall include all of the following:

(1) A representative other than the pupil's teacher designated by administration who may be an administrator, program specialist, or other specialist who is knowledgeable of program options appropriate for the pupil and who is qualified to provide, or supervise the provision of, special education.

(2) The pupil's present teacher. If the pupil does not presently have a teacher, this representative shall be the teacher with the most recent and complete knowledge of the pupil who has also observed the pupil's educational performance in an appropriate setting. If no such teacher is available, this representative shall be a regular classroom teacher referring the pupil, or a special education teacher qualified to teach a pupil of his or her age.

(3) One or both of the pupil's parents, a representative selected by the parent, or both, pursuant to Public Law 94-142.

(c) When appropriate, the team shall also include:

(1) The individual with exceptional needs.

(2) Other individuals, at the discretion of the parent, district, special education local plan area, or county office who possess expertise or knowledge necessary for the development of the individualized education program.

(d) If the team is developing, reviewing, or revising the individualized education program of an individual with exceptional needs who has been assessed for the purpose of that individualized education program, the district, special education local plan area, or county office, shall ensure that a person is present at the meeting who has conducted an assessment of the pupil or who is knowledgeable about the assessment procedures used to assess the pupil and is familiar with the results of the assessment. The person shall be qualified to interpret the results if the results or recommendations, based on the assessment, are significant to the development of the pupil's individualized education program and subsequent placement.

(e) For pupils with suspected learning disabilities, at least one member of the individualized education program team, other than

the pupil's regular teacher, shall be a person who has observed the pupil's educational performance in an appropriate setting. If the child is younger than four years and nine months or is not enrolled in a school, a team member shall observe the child in an environment appropriate for a child of that age.

(f) The parent shall have the right to present information to the individualized education program team in person or through a representative and the right to participate in meetings relating to eligibility for special education and related services, recommendations, and program planning.

(g) It is the intent of the Legislature that the individualized education program team meetings be nonadversarial and convened solely for the purpose of making educational decisions for the good of the individual with exceptional needs. However, if the public education agency uses an attorney during any part of the individualized education program meeting, that use shall be governed by the provisions of Section 56507.

SEC. 479. Section 56342 of the Education Code is amended to read:

56342. The individualized education program team shall review the assessment results, determine eligibility, determine the content of the individualized education program, consider local transportation policies and criteria developed pursuant to paragraph (5) of subdivision (b) of Section 56221, and make program placement recommendations.

Prior to recommending a new placement in a nonpublic, nonsectarian school, the individualized education program team shall submit the proposed recommendation to the local governing board of the district, special education local plan area, or county office for its review and recommendation regarding the cost of such placement.

The local governing board shall complete its review and make its recommendations, if any, at the next regular meeting of the board. A parent or representative shall have the right to appear before the board and submit written and oral evidence regarding the need for nonpublic school placement for his or her child. Any recommendations of the board shall be considered at an individualized education program team meeting, to be held within five days of the board's review.

Notwithstanding Section 56344, the time limit for the development of an individualized education program shall be waived for a period not to exceed 15 additional days to permit the local governing board to meet its review and recommendation requirements.

SEC. 480. Section 56344 of the Education Code is amended to read:

56344. An individualized education program required as a result of an assessment of a pupil shall be developed within a total time not to exceed 50 days, not counting days between school sessions or terms days, from the date of receipt of the parent's written consent for

assessment, unless the parent agrees, in writing, to an extension. However, such an individualized education program shall be developed within 30 days after the commencement of the subsequent regular school year as determined by each district's school calendar for each pupil for whom a referral has been made 20 days or less prior to the end of the regular school year.

SEC. 481. Section 56345 of the Education Code is amended to read:

56345. (a) The individualized education program is a written statement determined in a meeting of the individualized education program team and shall include, but not be limited to, all of the following:

(1) The present levels of the pupil's educational performance.

(2) The annual goals, including short-term instructional objectives.

(3) The specific special educational instruction and related services required by the pupil.

(4) The extent to which the pupil will be able to participate in regular educational programs.

(5) The projected date for initiation and the anticipated duration of such programs and services.

(6) Appropriate objective criteria, evaluation procedures, and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being achieved.

(b) When appropriate, the individualized education program shall also include, but not be limited to, all of the following:

(1) Prevocational career education for pupils in kindergarten and grades 1 to 6, inclusive, or pupils of comparable chronological age.

(2) Vocational education, career education or work experience education, or any combination thereof, in preparation for remunerative employment, including independent living skill training for pupils in grades 7 to 12, inclusive, or comparable chronological age, who require differential proficiency standards pursuant to Section 51215.

(3) For pupils in grades 7 to 12, inclusive, any alternative means and modes necessary for the pupil to complete the district's prescribed course of study and to meet or exceed proficiency standards for graduation in accordance with Section 51215.

(4) For individuals whose primary language is other than English, linguistically appropriate goals, objectives, programs and services.

(5) Extended school year services when needed, as determined by the individualized education program team.

(6) Provision for the transition into the regular class program if the pupil is to be transferred from a special class or center, or nonpublic, nonsectarian school into a regular class in a public school for any part of the schoolday.

(7) For pupils with low incidence disabilities, specialized services, materials, and equipment, consistent with guidelines established pursuant to Section 56136.

(c) It is the intent of the Legislature in requiring individualized education programs that the district, special education local plan area, or county office is responsible for providing the services delineated in the individualized education program. However, the Legislature recognizes that some pupils may not meet or exceed the growth projected in the annual goals and objectives of the pupil's individualized education program.

(d) Pursuant to subdivision (d) of Section 51215, a pupil's individualized education program shall also include the determination of the individualized education program team as to whether differential proficiency standards shall be developed for the pupil. If differential proficiency standards are to be developed, the individualized education program shall include these standards.

SEC. 482. Section 56345.5 of the Education Code is amended to read:

56345.5. Except as prescribed in subdivision (b) of Section 56324, nothing in this part shall be construed to authorize districts, special education local plan areas, or county offices to prescribe health care services.

SEC. 483. Section 56360 of the Education Code is amended to read:

56360. Each district, special education local plan area, or county office shall ensure that a continuum of program options is available to meet the needs of individuals with exceptional needs for special education and related services.

SEC. 484. Section 56361.5 of the Education Code is amended to read:

56361.5. (a) In addition to the continuum of program options listed in Section 56361, a district, special education local plan area, or county office may contract with a hospital to provide designated instruction and services, as defined in subdivision (b) of Section 56363, required by the individual with exceptional needs, as specified in the individualized education program. However, a district, special education local plan area, or county office of education may not contract with a sectarian hospital for instructional services. A district, special education local plan area, or county office shall contract with a hospital for designated instruction and services required by the individual with exceptional needs only when no appropriate public education program is available.

For the purposes of this section "hospital" means a health care facility licensed by the State Department of Health Services.

(b) Contracts with hospitals pursuant to subdivision (a) shall be subject to the procedures prescribed in Sections 56365, 56366, and 56366.5.

SEC. 485. Section 56363.3 of the Education Code is amended to read:

56363.3. The average caseload for language, speech, and hearing specialists in districts, county offices, or special education local plan areas shall not exceed 55 cases, unless the local comprehensive plan

specifies a higher average caseload and the reasons for the greater average caseload.

SEC. 486. Section 56363.5 of the Education Code is amended to read:

56363.5. School districts, county offices of education, and special education local plan areas may seek, either directly or through the pupil's parents, reimbursement from insurance companies to cover the costs of related services to the extent permitted by federal law or regulation.

SEC. 487. Section 56364.5 of the Education Code is amended to read:

56364.5. The Commission on Teacher Credentialing shall establish standards for the issuance of credentials or permits for persons employed in special centers pursuant to Section 56364.

SEC. 488. Section 56365 of the Education Code is amended to read:

56365. (a) Nonpublic, nonsectarian school services, including services by nonpublic, nonsectarian agencies shall be available. The services shall be provided under contract with the district, special education local plan area, or county office to provide the appropriate special educational facilities or services required by the individual with exceptional needs when no appropriate public education program is available.

(b) Pupils enrolled in nonpublic, nonsectarian schools under this section shall be deemed to be enrolled in public schools for all purposes of Chapter 4 (commencing with Section 41600) of Part 24 and Section 42238. The district, special education local plan area, or county office shall be eligible to receive allowances under Chapter 7 (commencing with Section 56700) for services that are provided to individuals with exceptional needs pursuant to the contract.

(c) The district, special education local plan area, or county office shall pay to the nonpublic, nonsectarian school the full amount of the tuition for individuals with exceptional needs that are enrolled in programs provided by the nonpublic, nonsectarian school pursuant to such contract.

(d) Before contracting with a nonpublic, nonsectarian school outside of the State of California, every effort shall be made by the district, special education local plan area, or county office to utilize public schools, or to locate an appropriate nonpublic, nonsectarian school program within the state.

SEC. 489. Section 56365.5 of the Education Code is amended to read:

56365.5. Before state funds can be used for new public and nonpublic school special education placements of individuals with exceptional needs, the superintendent shall review the appropriateness of the placement if the cost of the placement exceeds twenty thousand dollars ($20,000).

The district, special education local plan area, or county office shall submit documentation to the superintendent of all efforts made to

locate an appropriate alternative placement within the state and outside of the state.

The superintendent or his or her designee shall review the educational placement decision to determine if every effort was made by the district, special education local plan area, or county office to utilize an appropriate public or nonpublic, nonsectarian school costing less than twenty thousand dollars ($20,000).

The superintendent shall notify the district, special education local plan area, or county office of his or her findings within 10 days.

The twenty-thousand-dollar ($20,000) threshold shall be cumulatively increased by the annual percentage increase specified by Section 56723, or by the in-lieu percentage specified in the Budget Act.

Within five days following receipt of the superintendent's findings indicating availability of alternative placements, an individualized education program team meeting shall be convened to consider those findings.

If the superintendent fails to make findings within 10 days, the original placement decision of the individualized education program team shall be final.

The superintendent shall annually report the total costs incurred by districts, special education local plan areas, county offices, and the state resulting from placements made pursuant to this section.

SEC. 490. Section 56366 of the Education Code is amended to read:

56366. It is the intent of the Legislature that the role of the nonpublic, nonsectarian school shall be maintained and continued as an alternative special education service available to districts, special education local plan areas, and county offices, and parents.

(a) The contract for nonpublic, nonsectarian school services shall be developed in accordance with the following provisions:

(1) The contract shall specify the administrative and financial agreements between the nonpublic, nonsectarian school and the district, special education local plan area, or county office to provide the services included in the pupil's individualized education program. The contract may allow for partial or full-time attendance at the nonpublic, nonsectarian school.

(2) The contract shall be negotiated for the length of time for which nonpublic, nonsectarian school services are specified in the pupil's individualized education program.

Changes in educational instruction, services, or placement provided under contract may only be made on the basis of revisions to the pupil's individualized education program.

At any time during the term of the contract the parent; nonpublic, nonsectarian school; or district, special education local plan area, or county office may request a review of the pupil's individualized education program by the individualized education program team. Changes in the administrative or financial agreements of the contract that do not alter the educational instruction, services, or

placement may be made at any time during the term of the contract as mutually agreed by the nonpublic, nonsectarian school and the district, special education local plan area, or county office.

(3) The contract may be terminated for cause. Such cause shall not be the availability of a public class initiated during the period of the contract unless the parent agrees to the transfer of the pupil to a public school program. To terminate the contract either party shall give 20 days' notice.

(4) The nonpublic, nonsectarian school shall provide all services specified in the individualized education program, unless the nonpublic, nonsectarian school and the district, special education local plan area, or county office agree otherwise in the contract.

(b) (1) If the pupil is enrolled in the nonpublic, nonsectarian school with the approval of the district, special education local plan area, or county office prior to agreement to a contract, the district, special education local plan area, or county office shall issue a warrant, upon submission of an attendance report and claim, for an amount equal to the number of creditable days of attendance at the per diem rate agreed upon prior to the enrollment of the pupil. This provision shall be allowed for 90 days during which time the contract shall be consummated.

(2) If after 60 days the contract has not been finalized as prescribed in paragraph (1) of subdivision (a), either party may appeal to the county superintendent of schools, if the county superintendent is not participating in the local plan involved in the nonpublic, nonsectarian school contract, or the superintendent, if the county superintendent is participating in the local plan involved in the contract, to negotiate the contract. Within 30 days of receipt of this appeal, the county superintendent or the superintendent, or his or her designee, shall mediate the formulation of a contract which shall be binding upon both parties.

(c) No contract for special education and related services provided by nonpublic, nonsectarian schools or licensed children's institutions shall be authorized under this part unless the school or institution has been certified as meeting those standards relating to the required special education services and facilities for individuals with exceptional needs. The certification shall result in the school's or institution's receiving approval to educate pupils under this part for a period no longer than five years from the date of such approval. The procedures, methods, and areas of certification shall be established by rules and regulations issued by the board. The school or institution shall be charged a reasonable sum for this certification. In addition to those standards adopted by the board, the school or institution shall meet all applicable standards relating to fire, health, sanitation, and building safety.

SEC. 491. Section 56366.1 of the Education Code is amended to read:

56366.1. A district, special education local plan area, county office, nonpublic, nonsectarian school, nonpublic, nonsectarian

agency, or licensed children's institution may petition the superintendent to waive one or more of the requirements under Sections 56365 and 56366. The petition shall state the reasons for the request, and shall include sufficient documentation to demonstrate that the waiver is necessary or beneficial to the content and implementation of the pupil's individualized education program and that the waiver does not abrogate any right provided individuals with exceptional needs and their parents or guardians under state or federal law, and does not hinder the compliance of a district, special education local plan area, or county office with Public Law 94-142, as amended, Section 504 of Public Law 93-112, as amended, and federal regulations relating thereto.

SEC. 492. Section 56366.5 of the Education Code is amended to read:

56366.5. (a) Upon receipt of a request from a nonpublic, nonsectarian school for payment for services provided under a contract entered into pursuant to Sections 56365 and 56366, the district, special education local plan area, or county office shall either (1) send a warrant for the amount requested within 45 days, or (2) notify the nonpublic, nonsectarian school within 10 working days of any reason why the requested payment shall not be paid.

(b) If the district, special education local plan area, or county office fails to comply with subdivision (a), the nonpublic, nonsectarian school may require the district, special education local plan area, or county office to pay an additional amount of 1½ percent of the unpaid balance per month until full payment is made. The district, special education local plan area, or county office may not claim reimbursement from the state for such additional amount pursuant to any provision of law, including any provision contained in Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code.

SEC. 493. Section 56369 of the Education Code is amended to read:

56369. A district, special education local plan area, or county office, may contract with another public agency to provide special education or related services to an individual with exceptional needs.

SEC. 494. Section 56380 of the Education Code is amended to read:

56380. (a) The district, special education local plan area, or county office shall maintain procedures for conducting, on at least an annual basis, reviews of all individualized education programs. The procedures shall provide for the review of the pupil's progress and the appropriateness of placement, and the making of any necessary revisions.

(b) The district, special education local plan area, or county office shall notify, in writing, parents of their right to request a review by the individualized education program team. The notice may be part of the individualized education program.

(c) Each individualized education program review shall be

conducted in accordance with the notice and scheduling requirements for the initial assessment.

SEC. 495. Section 56450 of the Education Code is amended to read:

56450. (a) To the extent that funding is available, the superintendent shall, by July 1, 1981, disseminate to districts, special education local plan areas, and county offices information relating to exemplary local and regional programs that deliver career and vocational education services to individuals with exceptional needs.

(b) The superintendent shall annually update and disseminate the information.

(c) The information shall include, but not be limited to, descriptions of effective methods for coordinating career and vocational education services delivered by all the following, but not limited to, secondary schools, regional occupational centers and programs, community colleges, regional centers for the developmentally disabled, sheltered workshops, programs under the Comprehensive Employment and Training Act (Public Law 93-203), as amended, programs under the Rehabilitation Act of 1973 (Public Law 93-112), as amended, and programs under the Vocational Education Act, (Public Law 94-482) as amended.

SEC. 496. Section 56451 of the Education Code is amended to read:

56451. The board shall, through the use of discretionary federal funds, encourage districts, special education local plan areas, and county offices to develop programs that coordinate career and vocational education services with other educational services for individuals with exceptional needs. Coordination includes, but is not limited to, coordination among any of the entities and programs enumerated in subdivision (c) of Section 56450.

SEC. 497. Section 56454 of the Education Code is amended to read:

56454. In order to provide districts, special education local plan areas, and county offices with maximum flexibility to secure and utilize all federal funds available to enable those entities to meet the career and vocational needs of individuals with exceptional needs more effectively and efficiently, and to provide maximum federal funding to those agencies for the provision of that education, the superintendent shall do all the following:

(a) Provide necessary technical assistance to districts, special education local plan areas, and county offices.

(b) Establish procedures for these entities to obtain available federal funds.

(c) Apply for necessary waivers of federal statutes and regulations including, but not limited to, those governing federal career and vocational education programs.

SEC. 498. Section 56456 of the Education Code is amended to read:

56456. It is the intent of the Legislature that districts, special

education local plan areas, and county offices may use any state or local special education funds for approved vocational programs, services, and activities to satisfy the excess cost matching requirements for receipt of federal vocational education funds for individuals with exceptional needs.

SEC. 499. Section 56500 of the Education Code is amended to read:

56500. As used in this chapter, "public education agency" means a district, special education local plan area, or county office, depending on the category of local plan elected by the governing board of a school district pursuant to Section 56170, or any other public agency providing special education or related services.

SEC. 500. Section 56601 of the Education Code is amended to read:

56601. Each district, special education local plan area, or county office shall submit to the superintendent at least annually a report in a form and manner prescribed by the superintendent. The reports shall include that information necessary for the superintendent to carry out the responsibilities prescribed by Section 56602 and other statistical data, program descriptions, and fiscal information that the superintendent may require.

SEC. 501. Section 56602 of the Education Code is amended to read:

56602. In accordance with a program evaluation plan adopted pursuant to subdivision (e) of Section 56100, the superintendent shall submit to the board, the Legislature, and the Governor, an annual evaluation of the special education programs implemented under this part. This evaluation shall:

(a) Utilize existing information sources including fiscal records, child counts, other descriptive data, and program reviews to gather ongoing information regarding implementation of programs authorized by this chapter.

(b) Utilize existing information to the maximum extent feasible to conduct special evaluation studies of issues of statewide concern. The studies may include, but need not be limited to, all of the following:

(1) Pupil performance.

(2) Placement of pupils in least restrictive environments.

(3) Degree to which services identified in individualized education programs are provided.

(4) Parent, pupil, teacher, program specialist, resource specialist, and administrator attitudes toward services and processes provided.

(5) Program costs, including, but not limited to:

(A) Expenditures for instructional personnel services, support services, special transportation services, and regionalized services.

(B) Capital outlay costs at the district and school levels, and for special education local plan areas, county offices, state special schools, and nonpublic, nonsectarian schools.

(C) Funding sources at the district, special education local plan area, county office, state special school, and nonpublic, nonsectarian

school levels.

(c) Summarize and report on the results of special studies regarding the Master Plan for Special Education performed pursuant to Section 33406.

(d) Identify the numbers of individuals with exceptional needs, their racial and ethnic data, their classification by designated instructional services, resource specialist, special day class or center, and nonpublic, nonsectarian schools, in accordance with criteria established by the board and consistent with federal reporting requirements.

SEC. 502. Section 56606 of the Education Code is amended to read:

56606. The superintendent shall provide for onsite program and fiscal reviews of the implementation of plans approved under this part. In performing the reviews and audits, the superintendent may utilize the services of persons outside of the department chosen for their knowledge of special education programs. Each district, special education local plan area, or county office shall be reviewed at least once during the period of approval of its local plan.

SEC. 503. Section 56700 of the Education Code is amended to read:

56700. In fiscal year 1980–81 and in each fiscal year thereafter all apportionments to districts, special education local plan areas, and county offices for special education programs and services shall be computed pursuant to this chapter.

SEC. 504. 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 local plan area, or county office, shall estimate the pupils to be served in the subsequent fiscal year by instructional personnel service. The 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 local plan area, 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 local plan area, 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 local plan area, 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. 505. Section 56761 of the Education Code is amended to read:

56761. (a) A district, special education local plan area, or county office may request, and the superintendent may waive, any of the proportions specified in Section 56760. The waiver shall be granted only if compliance would both prevent the provision of a free, appropriate public education and would create undue hardship, as follows:

(1) For special classes and centers: proximity of the district, special education local plan area, or county office to state hospitals, licensed children's institutions, foster care facilities, or other facility may increase the expected numbers of individuals with exceptional needs requiring placement in special classes and centers.

(2) For resource specialist programs and designated instruction and services: the district, special education local plan area, or county office has implemented the eligibility criteria adopted by the board, and failure to grant the waiver may result in eligible pupils receiving inappropriate services.

(3) For the proportions specified in subdivision (b) of Section 56760: low pupil density in sparsely populated areas creates problems of distance and inaccessibility for the district, special education local plan area, or county office.

(b) A school district, special education local plan area, or county office may request the superintendent to waive one or more of the maximum unit proportions set forth in Section 56760. The request shall be granted only if it demonstrates that the increased cost of exceeding the standard in one instructional setting is offset by savings in another instructional setting.

SEC. 506. Section 56824 of the Education Code is amended to read:

56824. Each district, special education local plan area, and county office participating in special education programs pursuant to this part shall maintain a fiscal effort with respect to each pupil participating in special education programs that is no less than the fiscal effort of the district or county office per elementary, intermediate, or secondary pupil not participating in a special education program. The department shall annually review individual district and county office expenditures to assure the comparability of local support. This review shall be based on rules and regulations adopted by the board which take into account growth in district enrollment and increases in district costs.

SEC. 507. Section 56825 of the Education Code is amended to read:

56825. The department shall continuously monitor and review all special education programs approved under this part to assure that all funds appropriated to districts, special education local plan areas, and county offices under this part are expended for the purposes intended.

SEC. 508. Section 56826 of the Education Code is amended to read:

56826. Funds apportioned to districts, special education local plan areas, and county offices pursuant to this chapter shall be expended exclusively for programs operated under this part.

SEC. 509. Section 56851 of the Education Code is amended to read:

56851. (a) In developing the individualized educational program for an individual residing in a state hospital who is eligible for services under Public Law 94-142, a state hospital shall include on its interdisciplinary team a representative of the district, or special education local plan area, or county office in which the state hospital is located, and the individual's state hospital teacher, depending on whether the state hospital is otherwise working with the district, special education local plan area, or county office for the provision of special education programs and related services to individuals with exceptional needs residing in state hospitals. However, if a district or special education local plan area that is required by this section to provide a representative from the district or special education local plan area does not do so, the county office shall provide a representative.

(b) The state hospital shall reimburse the district, special education local plan area, or the county office, as the case may be, for the costs, including salary, of providing the representative.

(c) Once the individual is enrolled in the community program, the educational agency providing special education shall be responsible for reviewing and revising the individualized education program with the participation of a representative of the state hospital and the parent. The agency responsible for the

individualized education program shall be responsible for all individual protections, including notification and due process.

SEC. 510. Section 60241 of the Education Code is amended to read:

60241. The fund shall be administered by the State Department of Education under policies established by the state board. The state board shall encumber part of the fund to:

(a) Pay for the costs of braille and large print textbooks to be furnished for visually handicapped pupils pursuant to Sections 60312 and 60313.

(b) Pay for the costs of warehousing and transporting textbooks acquired for the purposes of Sections 60281 and 60310. These costs shall not exceed 10 percent of the cost of each textbook printed by the Department of General Services.

(c) Establish, commencing with the 1974–75 fiscal year, a reserve account, not to exceed two hundred thousand dollars ($200,000), to pay for the cost of:

(1) Acquisition of instructional materials, including those ordered for purchase by persons and entities pursuant to subdivisions (a) and (b) of Section 60310.

(2) Replacement of instructional materials, obtained by a school district with its credit or allowance, that are lost or destroyed by reason of fire, theft, natural disaster, or vandalism.

SEC. 511. Section 60242.5 of the Education Code is amended to read:

60242.5. Allowances received by districts pursuant to subdivision (b) of Section 60242 shall be deposited into a separate account as specified by the Superintendent of Public Instruction. These allowances, including any interest generated by them, shall be used only for the purchase of instructional materials, tests, or in-service training pursuant to subdivision (b) of Section 60242. Interest posted to the account shall be based upon reasonable estimates of monthly balances in the account and the average rate of interest earned by other funds of the district.

All purchases of instructional materials made with funds from this account shall conform to law and the applicable rules and regulations adopted by the state board, and the district superintendent shall provide written assurance of such conformance to the Superintendent of Public Instruction. Commencing September 1, 1984, the Superintendent of Public Instruction may withhold the allowance established pursuant to Section 60242 for any district which has failed to file a written assurance for the prior fiscal year. The Superintendent of Public Instruction may restore the amount withheld once the district provides the written assurance.

The office of the Controller, in cooperation with the State Department of Education, shall include procedures to review compliance with this section in its independent audit instructions.

SEC. 512. Section 60246 of the Education Code is amended to read:

60246. (a) The Controller shall during each fiscal year, commencing with the 1983–84 fiscal year, transfer from the General Fund of the state to the State Instructional Materials Fund, an amount of twenty-one dollars and eighteen cents ($21.18) per pupil in the average daily attendance in the public elementary schools during the preceding fiscal year, as certified by the Superintendent of Public Instruction, except that this amount shall be adjusted annually in conformance with the Consumer Price Index, all items, of the Bureau of Labor Statistics of the United States Department of Labor, measured for the calendar year next preceding the fiscal year to which it applies.

(b) The amount transferred pursuant to subdivision (a) includes the designated percentage of the cash entitlements to be used to pay for unadopted state materials, tests, and in-service training.

SEC. 513. Section 60285 of the Education Code is amended to read:

60285. The state board, in order to procure textbooks, shall tabulate all orders for each textbook title received from school districts pursuant to Section 60243. The Department of General Services shall select from the tabulation those titles that can be manufactured by the department at a unit cost lower than that specified in the price schedule submitted by the publisher or manufacturer pursuant to subdivision (b) of Section 60222, less the amount of sales tax payments on those titles to the State of California, and for which the department can complete manufacture in time to permit delivery to the school districts prior to the opening of school in the year in which the textbooks are to be used. In manufacturing any title, the department shall include the related teacher edition that would ordinarily be included by a publisher or manufacturer.

SEC. 514. Section 60314 of the Education Code is repealed.

SEC. 515. Section 60315 of the Education Code is repealed.

SEC. 516. Section 60640 of the Education Code is repealed.

SEC. 517. Section 60641 of the Education Code is repealed.

SEC. 518. Section 60642 of the Education Code is repealed.

SEC. 519. Section 60643 of the Education Code is repealed.

SEC. 520. Section 60660 of the Education Code is amended to read:

60660. The State Department of Education shall prepare and submit an annual report to the Legislature, the State Board of Education, and to each school district in the state containing an analysis, on a district-by-district basis, of the results and test scores of the testing program in basic skills courses, including tests administered pursuant to the Miller-Unruh Basic Reading Act of 1965 and Chapter 2 (commencing with Section 54100) of Part 29. The report shall include an analysis of the operational factors that appear to have a significant relationship to or bearing on the results.

The analysis may include, but need not be limited to, the following factors:

(a) Demographic characteristics.

(b) Financial characteristics.
(c) Pupil and parent characteristics.
(d) Instructional and staff characteristics.
(e) Specially funded programs.

School districts shall submit to the State Department of Education whatever information the department deems necessary to carry out the provisions of this section.

SEC. 521. Section 60664 of the Education Code is repealed.

SEC. 522. Section 60690 of the Education Code is amended to read:

60690. For purposes of implementing the provisions of Chapter 1 of the Education Consolidation and Improvement Act of 1981 and to the extent authorized by federal law, the State Board of Education and the State Department of Education shall not require more than one standardized achievement test to be administered per year, per pupil.

SEC. 523. Section 63002 of the Education Code is repealed.

SEC. 524. Part 4 (commencing with Section 24000) is added to Division 14 of the Elections Code, to read:

PART 4. SCHOOL DISTRICT AND COMMUNITY COLLEGE DISTRICT GOVERNING BOARD ELECTION

24000. When one member of the governing board of a school district or community college district is to be elected, the candidate receiving the highest number of votes shall be elected. When two or more members are to be elected, the two or more candidates receiving the highest number of votes shall be elected. Each voter may vote for as many candidates as there are members to be elected. The ballot shall contain instructions stating the maximum number of candidates for whom each voter may vote.

24001. Notwithstanding Section 24000, the governing board of any community college district may, by a resolution adopted by a majority vote of the board, assign a number to each seat on the board to be selected by lot. Once such numbers are assigned, any candidate for election to the board shall be required to run for a particular numbered seat on the board and be elected by the voters of the district at large.

24002. The forms for declaration of candidacy and notice to declare candidacy for governing board elections prescribed in this article are as provided in this section.

(a) The declaration of candidacy shall be in substantially the following form:

"I, _____, do hereby declare myself as a candidate for election to the governing board of _____ District, of the County of _____; I am a registered voter; if elected I will qualify and serve to the best of my ability; and I request my name be placed on the official ballots of the district, for the election to be held on the

_____ day of _____ 19__.

Residence address: _____"

In an election held under Section 5018 of the Education Code to elect additional governing board members all candidates for member of the governing board shall also indicate on their declaration of candidacy whether they are candidates for the existing office or for the new offices.

(b) Notices to declare candidacy for governing board elections shall be in substantially the following form:

"NOTICE TO DECLARE CANDIDACY FOR GOVERNING BOARD MEMBER ELECTION

"Notice is hereby given to all qualified persons that an election will be held in the _____ District, County of _____, State of California, on the _____ day of _____ 19__, for the purpose of electing _____ members to the governing board of the school district.

"Forms for declaring candidacy and for the nomination of candidates for the election are available from the office of the County Clerk or County Registrar of Voters at _____ (giving address at which forms may be obtained), California.

"Declarations of candidacy must be filed with the County Clerk or County Registrar of Voters at the above address not later than the _____ day of _____ 19__."

24003. In the case of any school district or community college district election called or conducted under the provisions of this code or the Education Code, except as provided in this section, the county clerk, or the registrar of voters if such office has been established, of the county in which the majority of the territory of the district is located, shall, within the same number of days provided in Section 23540 for the mailing of sample ballots, mail to each registered voter residing within the district, a sample ballot, a notice card designating the polling place and time of the election, an application for an absentee ballot in accordance with the provisions of Section 1006, and a notice of the voter's right to an absentee ballot in accordance with the provisions of Section 10017.

24004. Notwithstanding any other provision of this code, the county clerk or registrar of voters conducting any school election shall not be required to provide more than one ballot to the same voter for the purpose of voting on separate propositions at the same election. However, no voter shall be presented with a ballot containing a proposition on which he or she is not entitled to vote by virtue of not residing within the district or area affected by the proposition.

SEC. 525. Section 20330 of the Government Code is amended to

read:

20330. The following persons are excluded from membership in this system:

(a) Inmates of state or public agency institutions who are allowed compensation for such service as they are able to perform.

(b) Independent contractors who are not employees.

(c) Persons employed as student assistants in the state colleges and persons employed as student aides in the special schools of the State Department of Education and in the public schools of the state.

(d) Persons employed as student teachers and excluded under Section 22609 of the Education Code.

(e) Participants, other than staff officers and employees, in the California Conservation Corps.

(f) Persons employed as participants in a program of, and whose wages are paid in whole or in part by federal funds in accordance with, the Job Training Partnership Act of 1982 (Public Law 97-300).

This subdivision does not apply with respect to persons employed in job classes which provide eligibility for patrol or safety membership, or to the career staff employees of an employer.

SEC. 526. Section 53853 of the Government Code is amended to read:

53853. The note or notes shall be issued pursuant to a resolution authorizing the issuance thereof adopted by the legislative body of the local agency, except that the note or notes of a county board of education or a school or community college district that has not been accorded fiscal accountability status pursuant to Section 1080, 42647, 42650, or 85266 of the Education Code shall be issued in the name of the school or community college district by the board of supervisors of the county, the county superintendent of which has jurisdiction over the school or community college district, as soon as possible following receipt of a resolution of the governing board of the school or community college district requesting the borrowing and the note or notes of a county board of education shall be issued in the name of the county board of education by the board of supervisors of the county as soon as possible following receipt of a resolution of the county board of education requesting the borrowing. Notes authorized to be issued may be issued from time to time as provided in the resolution. The resolution shall set forth the form and the manner of execution of the note or notes.

SEC. 527. Section 20117 is added to the Public Contract Code, to read:

20117. Notwithstanding any other provision of law, in the event there are two or more identical lowest or highest bids, as the case may be, submitted to a school district for the purchase, sale, or lease of real property, supplies, materials, equipment, services, bonds, or the awarding of any contract, pursuant to a provision requiring competitive bidding, the governing board of any school district may determine by lot which bid shall be accepted.

SEC. 528. Section 20118 is added to the Public Contract Code, to

read:

20118. Notwithstanding Sections 20111 and 20112, the governing board of any school district without advertising for bids, if the board has determined it to be in the best interests of the district, may authorize by contract, lease, requisition, or purchase order, any public corporation or agency, including any county, city, town, or district, to lease data-processing equipment, purchase materials, supplies, equipment, automotive vehicles, tractors, and other personal property for the district in the manner in which the public corporation or agency is authorized by law to make the leases or purchases. Upon receipt of any such personal property, provided the property complies with the specifications set forth in the contract, lease, requisition, or purchase order, the school district may draw a warrant in favor of the public corporation or agency for the amount of the approved invoice, including the reasonable costs to the public corporation or agency for furnishing the services incidental to the lease or purchase of the personal property.

SEC. 529. Section 20118.1 is added to the Public Contract Code, to read:

20118.1. The governing board of any school district may contract with an acceptable party who is one of the three lowest responsible bidders for the procurement or maintenance, or both, of electronic data-processing systems and supporting software in any manner the board deems appropriate.

SEC. 530. Section 20118.2 is added to the Public Contract Code, to read:

20118.2. The governing board of any school district may purchase supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals in any amount needed for the operation of the schools of the district without taking estimates or advertising for bids.

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. 531. Section 20118.3 is added to the Public Contract Code, to read:

20118.3. The governing board of any school district may purchase supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks, or periodicals in any amount needed for the operation of the schools of the district without taking estimates or advertising for bids.

This section shall become operative January 1, 1989.

SEC. 532. Section 20118.4 is added to the Public Contract Code, to read:

20118.4. If any change or alteration of a contract governed by the provisions of Article 3 (commencing with Section 39643) of Chapter 4 of Part 23 of the Education Code is ordered by the governing board of the district, the change or alteration shall be specified in writing

and the cost agreed upon between the governing board and the contractor. The board may authorize the contractor to proceed with performance of the change or alteration without the formality of securing bids, if the cost so agreed upon does not exceed the greater of:

(a) The amount specified in Section 20111 or 20114, whichever is applicable to the original contract; or

(b) Ten percent of the original contract price.

The governing board of any school district, or of two or more school districts governed by governing boards of identical personnel, having an average daily attendance of 400,000 or more as shown by the annual report of the county superintendent of schools for the preceding year, may also authorize any change or alteration of a contract for reconstruction or rehabilitation work other than for the construction of new buildings or other new structures, where the cost of the change or alteration is in excess of the limitations in subdivisions (a) and (b) but does not exceed 25 percent of the original contract price, without the formality of securing bids, when such change or alteration is a necessary and integral part of the work under the contract and the taking of bids would delay the completion of the contract. Changes exceeding 15 percent of the original contract price shall be approved by an affirmative vote of not less than 75 percent of the members of the governing board.

SEC. 533. Section 21151.2 is added to the Public Resources Code, to read:

21151.2. To promote the safety of pupils and comprehensive community planning the governing board of each school district before acquiring title to property for a new school site or for an addition to a present school site, shall give the planning commission having jurisdiction notice in writing of the proposed acquisition. The planning commission shall investigate the proposed site and within 30 days after receipt of the notice shall submit to the governing board a written report of the investigation and its recommendations concerning acquisition of the site.

The governing board shall not acquire title to the property until the report of the planning commission has been received. If the report does not favor the acquisition of the property for a school site, or for an addition to a present school site, the governing board of the school district shall not acquire title to the property until 30 days after the commission's report is received.

SEC. 534. Article 28 (commencing with Section 960) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

Article 28. Adjustment Schools

960. This article shall be construed in conformity with the intent as well as the expressed provisions thereof, and the governing board of any adjustment school may do all those lawful acts that it deems

necessary to promote the prosperity of the adjustment school, or to promote the well-being and education of all minors entrusted to its charge.

961. The terms and provisions of Article 25 (commencing with Section 900) of Chapter 2 of Part 1 of Division 2 and Section 579 shall, so far as applicable, govern and control proceedings under this article.

962. The boards of supervisors or other governing bodies of counties and cities and counties may organize, establish, equip, and maintain, including the purchase of suitable sites and the construction of suitable buildings, adjustment schools in each county or city and county for the purpose of furnishing to minors under the age of 18 years pursuant to this article, care, custody, education, training, and adjustment to good citizenship, which shall be continuous and uninterrupted during the period the minors remain in school.

963. The boards of supervisors of two or more counties may by regularly adopted resolutions or ordinances duly entered on the minutes or proceedings of their respective boards, unite in the organization, establishment, equipment, and maintenance of adjustment schools for the respective counties. In that event, the schools shall be located in one or more of the counties as shall be mutually agreed upon and designated in the resolutions or ordinances.

964. If adjustment schools are organized by only one county or city and county, the government and management shall be vested in a governing board which shall be either the board of education, or similar school governing body, or the county probation committee of the juvenile court, or a board of trustees composed of seven members selected from both the board of education and the probation committee, as may be determined or chosen in the exercise of sound discretion by the board of supervisors or other governing body of the county or city and county.

965. If the adjustment schools are organized by the joint action of two or more counties, the boards of supervisors of the counties may by concerted action by duly adopted resolutions entrust the government and management to a governing board, which shall be any of the following:

(a) The board of education of the county in which at least one adjustment school is located.

(b) The probation committee of the juvenile court of the county in which at least one adjustment school is located.

(c) A board of trustees composed of seven members who shall represent all of the counties and each of whom may be selected from either the county board of education or the probation committee of the juvenile court of his or her respective county as shall be determined in the joint resolutions of the boards of supervisors.

966. If a board of trustees is chosen to govern and manage the adjustment school the term of office of the trustees shall be six years,

except that of the seven trustees first selected, two shall hold office for two years, two shall hold office for four years, and three shall hold office for six years. Each of the two-, four-, and six-year terms shall be assigned by lot to each of the seven trustees.

967. The governing board shall make all needful rules and regulations for the transaction of business and for the management and government of the adjustment school under its jurisdiction, and it shall see that proper care, custody, education, and training are provided for the minors under its care, to the end that the minors shall be adjusted to good citizenship and prepared to become honorable, self-supporting members of society.

968. The governing board shall make all contracts for the organization, establishment, including the purchase of a suitable site and the construction of suitable buildings, equipment, operation, and maintenance of the adjustment school that may be necessary or advisable. In no event shall the amount of money appropriated for any such purpose or other limitation prescribed by law or by order of the governing board, be exceeded or violated.

969. No member of the governing board, nor officer, nor employee of any adjustment school shall be interested, personally, directly, or indirectly, in any contract, purchase, or sale made, or in any business carried on in behalf of the school. Any money paid on the contracts or sales may be recovered by a civil suit, and the governing board upon the proof of such interest shall remove from office immediately the member, officer, or employee.

970. The governing board of the adjustment school shall appoint a superintendent, not of its own number, who shall be a person qualified by training and experience for the character of work to be performed at the adjustment school, and who shall hold office at the pleasure of the governing board.

971. The governing board shall determine the number, title, duties, and terms of office of all other officers and employees and shall fix their salaries, and that of the superintendent.

972. The superintendent of the adjustment school shall, before entering upon the discharge of his or her duties, make and file with the governing board an oath that he or she will faithfully and impartially discharge his or her duties. The superintendent shall also file with the governing board a bond, running to the State of California in a sum the board may determine, and with sureties to be approved by the board, conditioned upon the faithful performance of his or her duties. The premium of the bond shall be a part of the cost of maintaining the adjustment school.

973. The superintendent, after making and filing the bond, shall, subject to the direction of the governing board, be invested with the custody of the lands, buildings, and all other property pertaining to or under the control of the adjustment school. The superintendent shall account to the governing board in the manner it may require for all property entrusted to the superintendent and for all money received by him or her as superintendent of the adjustment school,

or for any of the minors entrusted to its care.

974. The superintendent shall also, subject to the direction of the governing board, appoint all officers and employees of the adjustment school, who shall hold office at the pleasure of the superintendent. The superintendent shall exercise the supervisory, executive, and managing powers that are conferred upon him or her by the governing board.

975. The superintendent shall reside in the adjustment school or one of the adjustment schools under his or her jurisdiction and shall be furnished suitable quarters, furniture, food supplies, and laundry for himself or herself and his or her family. The governing board may make similar provision for other officers and employees that the interests of the adjustment school may in its judgment require to reside on the premises.

976. The adjustment school shall receive into its care, custody, and control all boys and girls under 18 years of age who are committed to it by order of the juvenile court of the county or city and county maintaining or contributing to the maintenance of the adjustment school.

977. Any minor who has been committed to the care, custody, and control of any adjustment school shall remain in the school for the duration of the period provided in the order of commitment, or until further order of the juvenile court.

978. The juvenile court shall review the order of commitment at least once each year, and upon review the court may continue, terminate, or modify the order of commitment.

979. If at any time in the opinion of the superintendent of the adjustment school the further detention of the minor is detrimental to the interests of the school, the minor may immediately, upon order of the superintendent, be returned to the committing court, and the court may revoke its previous order, and proceedings may be resumed where they were suspended when the commitment was made.

980. The governing board of any adjustment school shall cause the school to be conducted as may seem best calculated to carry out the intentions of this article.

981. There shall be organized a course of study, corresponding as far as practicable with the course of study in the public schools of the state.

982. There shall be provided in the adjustment school the proper facilities and equipment for vocational and trade training, in addition to other public school education or training that may be determined upon by the governing board. Vocational or trade training education shall be given to each minor while under the care of the adjustment school, to the end that he or she may upon discharge be qualified for honorable and self-supporting employment.

983. Any order of the juvenile court committing a minor to the care, custody, and control of an adjustment school may provide the expense of his or her support and maintenance by directing that the

expense be paid in whole or in part by his or her parent, guardian, or other person liable for his or her support and maintenance.

984. If the adjustment school is organized, established, equipped, and maintained by only one county or city and county, the entire expense of the school shall be borne by the county or city and county, and the board of supervisors, or other governing body of the county or city and county shall make due and annual provision therefor. The necessary items of expense shall be set forth in the annual budget of the county or city and county.

985. If an adjustment school is organized, established, equipped, and maintained by two or more counties, the initial expense of organizing, establishing, and equipping the school shall be apportioned between each of the counties on a pro rata basis in the ratio that the number of children of school age residing in each county bears to the number of children of school age residing in all of the counties.

986. The annual expense of maintaining the school by two or more counties, shall be apportioned between the counties on a pro rata basis in the ratio that the average daily enrollment of minors placed in the school from each county during the preceding year bears to the total average daily enrollment in the school from all of the counties during the year.

987. The governing board shall require any officer entrusted with money belonging to an adjustment school or to any of the minors entrusted to its care, or any officer placed in a position of trust and responsibility in the custody of property or in the handling of supplies belonging to the school, to file with the board a bond with sureties approved by the board and in a sum that it may determine, conditioned upon the faithful performance of the duties required, and upon the faithful accounting of all money and property coming into his or her hands or under his or her control by virtue of his or her office. The premiums on the bonds shall be a part of the cost of maintaining the adjustment school.

SEC. 535. To the extent Assembly Bill 93, Assembly Bill 947, Assembly Bill 1782, Assembly Bill 2628, Senate Bill 136, Senate Bill 789, or Senate Bill 939 is chaptered and takes effect on or before January 1, 1988, and amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, added, repealed and added, or repealed by this act, any of those acts shall prevail over this act, whether enacted prior to or subsequent to, this act.

SEC. 536. Sections 44882 and 44883 of the Education Code, as amended and renumbered by Sections 366.5 and 367.5 of this act, shall become operative only if this bill and Senate Bill 798 are chaptered and become effective on or before January 1, 1988, and this bill is chaptered after Senate Bill 798. In that case, the repeals of Sections 44882 and 44883 of the Education Code in Sections 367 and 368 of this act, and the addition of Sections 44929.20 and 44929.21 of the Education Code in Section 380 of this act, shall not become operative.

CHAPTER 1453

An act to amend Sections 1798.3, 1798.24, and 1798.25 of the Civil Code, to amend Section 1909 of the Financial Code, and to amend Sections 6254.5, 7465, 7480, and 11181 of the Government Code, relating to state government.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 1798.3 of the Civil Code is amended to read:

1798.3. As used in this chapter:

(a) The term "personal information" means any information that is maintained by an agency that identifies or describes an individual, including, but not limited to, his or her name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history. It includes statements made by, or attributed to, the individual.

(b) The term "agency" means every state office, officer, department, division, bureau, board, commission, or other state agency, except that the term agency shall not include:

(1) The California Legislature.

(2) Any agency established under Article VI of the California Constitution.

(3) The State Compensation Insurance Fund, except as to any records which contain personal information about the employees of the State Compensation Insurance Fund.

(4) A local agency, as defined in subdivision (b) of Section 6252 of the Government Code.

(c) The term "disclose" means to disclose, release, transfer, disseminate, or otherwise communicate all or any part of any record orally, in writing, or by electronic or any other means to any person or entity.

(d) The term "individual" means a natural person.

(e) The term "maintain" includes maintain, acquire, use, or disclose.

(f) The term "person" means any natural person, corporation, partnership, firm, or association.

(g) The term "record" means any file or grouping of information about an individual that is maintained by an agency by reference to an identifying particular such as the individual's name, photograph, finger or voice print, or a number or symbol assigned to the individual.

(h) The term "system of records" means one or more records,

which pertain to one or more individuals, which is maintained by any agency, from which information is retrieved by the name of an individual or by some identifying number, symbol or other identifying particular assigned to the individual.

(i) The term "governmental entity," except as used in Section 1798.26, means any branch of the federal government or of the local government.

(j) The term "commercial purpose" means any purpose which has financial gain as a major objective. It does not include the gathering or dissemination of newsworthy facts by a publisher or broadcaster.

(k) The term "regulatory agency" means the State Banking Department, the Department of Corporations, the Department of Insurance, the Department of Savings and Loan, the Department of Real Estate, and agencies of the United States or of any other state responsible for regulating financial institutions.

SEC. 2. Section 1798.24 of the Civil Code is amended to read:

1798.24. No agency may disclose any personal information in a manner that would link the information disclosed to the individual to whom it pertains unless the disclosure of the information is:

(a) To the individual to whom the information pertains.

(b) With the prior written voluntary consent of the individual to whom the record pertains, but only if such consent has been obtained not more than 30 days before the disclosure, or in the time limit agreed to by the individual in the written consent.

(c) To the duly appointed guardian or conservator of the individual or a person representing the individual provided that it can be proven with reasonable certainty through the possession of agency forms, documents or correspondence that such person is the authorized representative of the individual to whom the information pertains.

(d) To those officers, employees, attorneys, agents, or volunteers of the agency which has custody of the information if the disclosure is relevant and necessary in the ordinary course of the performance of their official duties and is related to the purpose for which the information was acquired.

(e) To a person, or to another agency where the transfer is necessary for the transferee agency to perform its constitutional or statutory duties, and the use is compatible with a purpose for which the information was collected and the use or transfer is listed in the notice provided pursuant to Section 1798.9 or accounted for in accordance with Section 1798.25. With respect to information transferred from a law enforcement or regulatory agency, or information transferred to another law enforcement or regulatory agency, a use is compatible if the use of the information requested is needed in an investigation of unlawful activity under the jurisdiction of the requesting agency or for licensing, certification, or regulatory purposes by that agency.

(f) To a governmental entity when required by state or federal

law.

(g) Pursuant to the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(h) To a person who has provided the agency with advance adequate written assurance that the information will be used solely for statistical research or reporting purposes, but only if the information to be disclosed is in a form that will not identify any individual.

(i) Pursuant to a determination by the agency which maintains information that compelling circumstances exist which affect the health or safety of an individual, if upon the disclosure notification is transmitted to the individual to whom the information pertains at his or her last known address. Disclosure shall not be made if it is in conflict with other state or federal law.

(j) To the State Archives of the State of California as a record which has sufficient historical or other value to warrant its continued preservation by the California state government, or for evaluation by the Director of General Services or his or her designee to determine whether the record has further administrative, legal, or fiscal value.

(k) To any person pursuant to a subpoena, court order, or other compulsory legal process if, before the disclosure, the agency reasonably attempts to notify the individual to whom the record pertains, and if the notification is not prohibited by law.

(*l*) To any person pursuant to a search warrant.

(m) Pursuant to Article 3 (commencing with Section 1800) of Chapter 1 of Division 2 of the Vehicle Code.

(n) For the sole purpose of verifying and paying government health care service claims made pursuant to Division 9 (commencing with Section 10000) of the Welfare and Institutions Code.

(o) To a law enforcement or regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes, unless the disclosure is otherwise prohibited by law.

(p) To another person or governmental organization to the extent necessary to obtain information from the person or governmental organization as necessary for an investigation by the agency of a failure to comply with a specific state law which the agency is responsible for enforcing.

(q) To the Office of Information Practices when the transfer is necessary for that office to investigate a complaint it has received regarding an alleged violation of this chapter or to perform its mediation functions, provided that the Office of Information Practices has received the written voluntary consent of the individual to whom the information pertains for such a transfer.

(r) To an adopted person and is limited to general background information pertaining to the adopted person's natural parents, provided that the information does not include or reveal the identity of the natural parents.

(s) To a child or a grandchild of an adopted person and disclosure is limited to medically necessary information pertaining to the adopted person's natural parents. However the information, or the process for obtaining the information, shall not include or reveal the identity of the natural parents. The State Department of Social Services shall adopt regulations governing the release of information pursuant to this subdivision by July 1, 1985. The regulations shall require licensed adoption agencies to provide the same services provided by the department as established by this subdivision.

(t) To a committee of the Legislature or to a Member of the Legislature, or his or her staff when authorized in writing by the member, where such member has permission to obtain the information from the individual to whom it pertains or where the member provides reasonable assurance that he or she is acting in behalf of the individual.

(u) To the University of California or a nonprofit educational institution conducting scientific research, provided the request for information includes assurances of the need for personal information, procedures for protecting the confidentiality of the information and assurances that the personal identity of the subject shall not be further disclosed in individually identifiable form.

(v) To an insurer if authorized by Chapter 5 (commencing with Section 10900) of Division 4 of the Vehicle Code.

This article shall not be construed to require the disclosure of personal information to the individual to whom the information pertains when that information may otherwise be withheld as set forth in Section 1798.40.

SEC. 3. Section 1798.25 of the Civil Code is amended to read:

1798.25. Each agency shall keep an accurate accounting of the date, nature, and purpose of each disclosure of a record made pursuant to subdivision (i), (k), (*l*), (o), or (p) of Section 1798.24. This accounting shall also be required for disclosures made pursuant to subdivision (e) or (f) of Section 1798.24 unless notice of the type of disclosure has been provided pursuant to Sections 1798.9 and 1798.10. The accounting shall also include the name, title, and business address of the person or agency to whom the disclosure was made. For the purpose of an accounting of a disclosure made under subdivision (o) of Section 1798.24, it shall be sufficient for a law enforcement or regulatory agency to record the date of disclosure, the law enforcement or regulatory agency requesting the disclosure, and whether the purpose of the disclosure is for an investigation of unlawful activity under the jurisdiction of the requesting agency, or for licensing, certification, or regulatory purposes by that agency.

Routine disclosures of information pertaining to crimes, offenders, and suspected offenders to law enforcement or regulatory agencies of federal, state, and local government shall be deemed to be disclosures pursuant to subdivision (e) of Section 1798.24 for the purpose of meeting this requirement.

SEC. 4. Section 1909 of the Financial Code is amended to read:

1909. (a) The superintendent may furnish information to a governmental agency that regulates financial institutions.

(b) The superintendent may furnish to a governmental agency that administers a loan guarantee or similar program, information relating to a person who participates in the program.

(c) The superintendent may furnish to a governmental agency that regulates business activities, other than the type described in subdivision (a), information relating to:

(1) A suspected violation of a law administered by the agency.

(2) A person involved in an application to the agency for a license, approval, or other authorization.

(d) The superintendent may furnish to a law enforcement agency, information relating to a suspected crime.

SEC. 5. Section 6254.5 of the Government Code is amended to read:

6254.5. Notwithstanding any other provisions of the law, whenever a state or local agency discloses a public record which is otherwise exempt from this chapter, to any member of the public, this disclosure shall constitute a waiver of the exemptions specified in Sections 6254, 6254.7, or other similar provisions of law. For purposes of this section, "agency" includes a member, agent, officer, or employee of the agency acting within the scope of his or her membership, agency, office, or employment.

This section, however, shall not apply to disclosures:

(a) Made pursuant to the Information Practices Act (commencing with Section 1798 of the Civil Code) or discovery proceedings.

(b) Made through other legal proceedings.

(c) Within the scope of disclosure of a statute which limits disclosure of specified writings to certain purposes.

(d) Not required by law, and prohibited by formal action of an elected legislative body of the local agency which retains the writings.

(e) Made to any governmental agency which agrees to treat the disclosed material as confidential. Only persons authorized in writing by the person in charge of the agency shall be permitted to obtain the information. Any information obtained by the agency shall only be used for purposes which are consistent with existing law.

(f) Of records relating to a financial institution or an affiliate thereof, if the disclosures are made to the financial institution or affiliate by a state agency responsible for the regulation or supervision of the financial institution or affiliate.

SEC. 6. Section 7465 of the Government Code is amended to read:

7465. For the purposes of this chapter:

(a) The term "financial institution" includes state and national banks, state and federal savings and loan associations, trust companies, industrial loan companies, and state and federal credit unions. Such term shall not include a title insurer while engaging in

the conduct of the "business of title insurance" as defined by Section 12340.3 of the Insurance Code, an underwritten title company, or an escrow company.

(b) The term "financial records" means any original or any copy of any record or document held by a financial institution pertaining to a customer of the financial institution.

(c) The term "person" means an individual, partnership, corporation, association, trust or any other legal entity.

(d) The term "customer" means any person who has transacted business with or has used the services of a financial institution or for whom a financial institution has acted as a fiduciary.

(e) The term "state agency" means every state office, officer, department, division, bureau, board, and commission or other state agency, including the Legislature.

(f) The term "local agency" includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; or other local public agency.

(g) The term "supervisory agency" means any of the following:

(1) The State Banking Department.

(2) The Department of Savings and Loan.

(3) The Department of Corporations.

(4) The State Controller.

(5) The Administrator of Local Agency Security.

(6) The Department of Real Estate.

(7) The Department of Insurance.

(h) The term "investigation" includes, but is not limited to, any inquiry by a peace officer, sheriff, or district attorney, or any inquiry made for the purpose of determining whether there has been a violation of any law enforceable by imprisonment, fine, or monetary liability.

(i) The term "subpoena" includes subpoena duces tecum.

SEC. 7. Section 7480 of the Government Code is amended to read:

7480. Nothing in this chapter prohibits any of the following:

(a) The dissemination of any financial information which is not identified with, or identifiable as being derived from, the financial records of a particular customer.

(b) When any police or sheriff's department or district attorney in this state certifies to a bank, credit union, or savings and loan association in writing that a crime report has been filed which involves the alleged fraudulent use of drafts, checks, or other orders drawn upon any bank, credit union, or savings and loan association in this state, such police or sheriff's department or district attorney may request a bank, credit union, or savings and loan association to furnish, and a bank, credit union, or savings and loan association shall supply, a statement setting forth the following information with respect to a customer account specified by the police or sheriff's department or district attorney for a period 30 days prior to and up

to 30 days following the date of occurrence of the alleged illegal act involving the account:

(1) The number of items dishonored.

(2) The number of items paid which created overdrafts.

(3) The dollar volume of such dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the bank, credit union, or savings and loan association and customer to pay overdrafts.

(4) The dates and amounts of deposits and debits and the account balance on such dates.

(5) A copy of the signature and any addresses appearing on a customer's signature card.

(6) The date the account opened and, if applicable, the date the account closed.

(c) The Attorney General, a supervisory agency, the Franchise Tax Board, the State Board of Equalization, the Employment Development Department, the Controller or an inheritance tax referee when administering the Inheritance Tax Law (Part 8 (commencing with Section 13301) of Division 2 of the Revenue and Taxation Code), a police or sheriff's department or district attorney, a county welfare department when investigating welfare fraud, or the Department of Corporations when conducting investigations in connection with the enforcement of laws administered by the Commissioner of Corporations, from requesting of an office or branch of a financial institution, and the office or branch from responding to such a request, as to whether a person has an account or accounts at that office or branch and, if so, any identifying numbers of such account or accounts.

No additional information beyond that specified in this section shall be released to a county welfare department without either the account holder's written consent or a judicial writ, search warrant, subpoena, or other judicial order.

(d) The examination by, or disclosure to, any supervisory agency of financial records which relate solely to the exercise of its supervisory function. The scope of an agency's supervisory function shall be determined by reference to statutes which grant authority to examine, audit, or require reports of financial records or financial institutions as follows:

(1) With respect to the Superintendent of Banks by reference to Division 1 (commencing with Section 99), Division 15 (commencing with Section 31000), and Division 16 (commencing with Section 33000) of the Financial Code.

(2) With respect to the Department of Savings and Loan by reference to Division 2 (commencing with Section 5000) of the Financial Code.

(3) With respect to the Corporations Commissioner by reference to Division 5 (commencing with Section 14000) and Division 7 (commencing with Section 18000) of the Financial Code.

(4) With respect to the Controller by reference to Title 10

(commencing with Section 1300) of Part 3 of the Code of Civil Procedure.

(5) With respect to the Administrator of Local Agency Security by reference to Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(e) The disclosure to the Franchise Tax Board of (1) the amount of any security interest a financial institution has in a specified asset of a customer or (2) financial records in connection with the filing or audit of a tax return or tax information return required to be filed by the financial institution pursuant to Part 10, 11, or 18 of the Revenue and Taxation Code.

(f) The disclosure to the State Board of Equalization of any of the following:

(1) The information required by Sections 6702, 6703, 8954, 8957, 30313, 30315, 32383, 32387, 38502, 40153, 40155, 41123.5, 43444.2, and 44144 of the Revenue and Taxation Code.

(2) The financial records in connection with the filing or audit of a tax return required to be filed by the financial institution pursuant to Parts 1 (commencing with Section 6001), 2 (commencing with Section 7301), 3 (commencing with Section 8601), 13 (commencing with Section 30001), 14 (commencing with Section 32001), and 17 (commencing with Section 37001) of Division 2 of the Revenue and Taxation Code.

(3) The amount of any security interest a financial institution has in a specified asset of a customer, if the inquiry is directed to the branch or office where the interest is held.

(g) The disclosure to the Controller of the information required by Section 7853 of the Revenue and Taxation Code.

(h) The disclosure to the Employment Development Department of the amount of any security interest a financial institution has in a specified asset of a customer, if the inquiry is directed to the branch or office where the interest is held.

(i) The disclosure by a construction lender, as defined in Section 3087 of the Civil Code, to the Registrar of Contractors, of information concerning the making of progress payments to a prime contractor requested by the registrar in connection with an investigation under Section 7108.5 of the Business and Professions Code.

SEC. 8. Section 11181 of the Government Code is amended to read:

11181. In connection with these investigations and actions, the department head may:

(a) Inspect books and records.

(b) Hear complaints.

(c) Administer oaths.

(d) Certify to all official acts.

(e) Issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding pertinent or material thereto in any part of the state.

(f) Divulge evidence of unlawful activity discovered, pursuant to this article, from records or testimony not otherwise privileged or confidential, to the Attorney General or to any prosecuting attorney who has a responsibility for investigating the unlawful activity discovered, or to any governmental agency responsible for enforcing laws related to the unlawful activity discovered.

CHAPTER 1454

An act to amend Section 32132 of the Health and Safety Code, relating to hospitals.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 32132 of the Health and Safety Code is amended to read:

32132. (a) Except as otherwise provided in this section, the board of directors shall let any contract involving an expenditure of more than twenty thousand dollars ($20,000) for materials and supplies to be furnished, sold, or leased to the district, or any contract involving an expenditure of more than ten thousand dollars ($10,000) for work to be done, to the lowest responsible bidder who shall give such security as the board requires, or else reject all bids.

(b) Subdivision (a) shall not apply to medical or surgical equipment or supplies or to professional services, including data processing programs or software.

(c) Bids need not be secured for change orders which do not materially change the scope of the work as set forth in a contract previously made if such contract was made after compliance with bidding requirements, and if each individual change order does not total more than 5 percent of such contract.

(d) As used in this section, "medical or surgical equipment or supplies" includes only equipment or supplies commonly, necessarily, and directly used by, or under the direction of, a physician and surgeon in caring for or treating a patient in a hospital.

(e) Nothing in this section shall prevent any district hospital from participating as a member of any organization described in Section 23704 of the Revenue and Taxation Code, nor shall this section apply to any purchase made, or services rendered, by such organization on behalf of a district hospital which is a member of such organization.

CHAPTER 1455

An act to amend Sections 14006.2 and 14010 of, and to repeal and add Section 14009 of, the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987]

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

SECTION 1. 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 nonexempt 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 nonexempt 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. In the event that the married individual expends his or her resources for expenses associated with or for improvements to property, those expenditures shall be considered to be for his or her own benefit only to the extent that the expenditures are proportionate to the ownership interest the individual has in the property. 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. 2. Section 14009 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 14009 is added to the Welfare and Institutions Code, to read:

14009. (a) Any applicant for, or beneficiary of Medi-Cal, or person acting on behalf of an applicant or beneficiary shall be informed as to the provisions of eligibility and, in writing, of his or her responsibility for reporting facts material to a correct determination of eligibility and share of cost.

(b) Any applicant for, or beneficiary of Medi-Cal, or person acting on behalf of an applicant or beneficiary 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) If, because of a failure to report facts in accordance with subdivision (b), the beneficiary received health care to which he or she was not entitled, he or she shall be liable to repay any overpayment. The amount of overpayment shall be based on the amount of excess income or resources and computed in accordance with overpayment regulations promulgated by the director.

(d) No liability for overpayment shall result from circumstances where there is a failure on the part of an applicant or beneficiary to perform an act constituting a condition of eligibility, if the failure is caused by an error made by the department or a county welfare department, or where the beneficiary reported facts in accordance with subdivision (b) but a county welfare department failed to act on those facts.

(e) When the department determines that an overpayment has occurred, the department shall seek to recover the full amount of the overpayment by appropriate action under state law against the income or resources of the beneficiary or the income and resources of any person who is financially responsible for the cost of his or her health care pursuant to Section 14008.

(f) The department shall advise the beneficiary of the overpayment, the amount he or she is liable to repay, and of his or her entitlement to a hearing on the propriety of the action pursuant to Chapter 7 (commencing with Section 10950) of Part 2.

(g) No civil or criminal action may be commenced against any person based on alleged unlawful application for or receipt of health care services, where the case record of the person has been destroyed after the expiration of the retention period provided pursuant to Section 10851.

SEC. 4. Section 14010 of the Welfare and Institutions Code is amended to read:

14010. (a) Notwithstanding any other provision of law, the parent or parents of a person under 21 years of age shall not be held financially responsible, nor shall financial contribution be requested or required of such parent or parents for health care or related services to which the person may consent under any express provision of law, including, but not limited to, Sections 25.9, 34.5, 34.7, 34.8, 34.9, and 34.10 of the Civil Code, and including, but not limited to, maternity home care, social service counseling, and other services related to pregnancy of the person which are provided by a licensed maternity home.

Federal financial participation in providing such services shall not be claimed to the extent that the exemption from financial responsibility provided by this section is inconsistent with federal law.

(b) Notwithstanding the provisions of subdivision (a), the parent or parents of a person under 21 years of age, who is living in the home of the parent or parents, shall be held financially responsible for

health care or related services to which the person under 21 years of age may consent pursuant to Section 25.6 of the Civil Code, but excluding health care and or related services to which a person may consent under Sections 25.9, 34.5, 34.7, 34.8, 34.9, and 34.10 of the Civil Code.

CHAPTER 1456

An act to amend Sections 1268.5 and 1437 of, to add Sections 441.21, 1219, 1219.1, 1267.11, 1575.3, 1575.4, 1728.2 and 1728.3 to, and to repeal and add Section 1267.7 of, the Health and Safety Code, relating to health facilities.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 441.21 is added to the Health and Safety Code, to read:

441.21. Intermediate care facilities/developmentally disabled-habilitative, as defined in subdivision (e) of Section 1250, shall not be subject to the Health Data and Advisory Council Consolidation Act (Part 1.8 (commencing with Section 443)).

SEC. 1.5. Section 1219 is added to the Health and Safety Code, to read:

1219. (a) If a clinic or an applicant for a license has not been previously licensed, the state department may only issue a provisional license to the clinic as provided in this section.

(b) A provisional license to operate a clinic shall terminate six months from the date of issuance.

(c) Within 30 days prior to the termination of a provisional license, the state department shall give the clinic a full and complete inspection, and, if the clinic meets all applicable requirements for licensure, a regular license shall be issued. If the clinic does not meet the requirements for licensure but has made substantial progress towards meeting such requirements, as determined by the state department, the initial provisional license shall be renewed for six months.

(d) If the state department determines that there has not been substantial progress towards meeting licensure requirements at the time of the first full inspection provided by this section, or, if the state department determines upon its inspection made within 30 days of the termination of a renewed provisional license that there is a lack of full compliance with such requirements, no further license shall be issued.

(e) If an applicant for a provisional license to operate a clinic has been denied by the state department, the applicant may contest the

denial by filing a statement of issues, as provided in Section 11504 of the Government Code. The proceedings to review the denial shall be conducted pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2. Section 1219.1 is added to the Health and Safety Code, to read:

1219.1. (a) The state department may issue a provisional license to a clinic if:

(1) The clinic and the applicant for licensure substantially meet the standards specified by this chapter and regulations adopted pursuant to this chapter.

(2) No violation of this chapter or regulations adopted under this chapter exists in the clinic which jeopardizes the health or safety of patients.

(3) The applicant has adopted a plan for correction of any existing violations which is satisfactory to the state department.

(b) A provisional license issued under this section shall expire not later than six months after the date of issuance, or at such earlier time as determined by the state department at the time of issuance, and may not be renewed.

SEC. 2.3. Section 1267.7 of the Health and Safety Code is repealed.

SEC. 2.5. Section 1267.7 is added to the Health and Safety Code, to read:

1267.7. The State Department of Health Services and the State Department of Developmental Services shall jointly develop and implement licensing and Medi-Cal regulations appropriate to intermediate care facility/developmentally disabled-habilitative facilities. These regulations shall ensure that residents of these facilities are assured appropriate developmental and supportive health services in the most normal, least restrictive physical and programmatic environments appropriate to individual resident needs. Regulations adopted pursuant to this section shall include provision for maximum utilization of generic community resources in the provision of services to residents and participation of the residents in community activities.

SEC. 2.7. Section 1267.11 is added to the Health and Safety Code, to read:

1267.11. Each intermediate care facility/developmentally disabled-habilitative shall designate direct care staff persons to supervise the direct care services to clients for at least 56 hours per week. The hours of these supervisory staff persons shall be applied against the total number of direct care hours required in regulations developed by the department pursuant to Section 1267.7. These supervisory staff persons shall, at a minimum, meet one of the following criteria:

(a) Possession of a valid vocational nurse or psychiatric technician license issued by the Board of Vocational Nurse and Psychiatric

Technician Examiners.

(b) Completion of at least 30 college or university units in education, social services, behavioral sciences, health sciences, or related fields, and six months experience providing direct services to developmentally disabled persons.

(c) Eighteen months experience providing direct services to developmentally disabled persons while under the supervision of a person who meets the requirements of a mental retardation professional as defined in regulations promulgated pursuant to Section 1267.7.

SEC. 3. Section 1268.5 of the Health and Safety Code is amended to read:

1268.5. Notwithstanding the provisions of Section 1268 requiring full compliance with the provisions of this chapter and the rules and regulations of the state department as a condition to the issuance of a license or special permit, the state department may issue a provisional license to a health facility except for a health facility defined in subdivisions (a) and (b) of Section 1250, if:

(a) The facility and the applicant for licensure substantially meet the standards specified by this chapter and regulations adopted pursuant to this chapter.

(b) No violation of such provisions or regulations exists in the facility which jeopardizes the health or safety of patients.

(c) The applicant has adopted a plan for correction of any existing violations which is satisfactory to the state department.

A provisional license issued under this section shall expire not later than six months after the date of issuance, or at such earlier time as determined by the state department at the time of issuance, and may not be renewed.

The department shall not apply less stringent criteria when granting a provisional license pursuant to this section then it applies when granting a permanent license.

It is the intent of the Legislature in enacting this section to additionally provide for continuity of reimbursement under the Medi-Cal Act, Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, whenever ownership of a skilled nursing facility or intermediate care facility is transferred.

SEC. 4. Section 1437 of the Health and Safety Code is amended to read:

1437. If a health facility, or an applicant for a license has not been previously licensed pursuant to Chapter 2 (commencing with Section 1250), the state department may only provisionally license such facility as provided in this section. A provisional license to operate a health facility shall terminate six months from the date of issuance. Within 30 days of the termination of a provisional license, the state department shall give such facility a full and complete inspection, and, if the facility meets all applicable requirements for licensure, a regular license shall be issued. If the health facility does

not meet the requirements for licensure but has made substantial progress towards meeting such requirements, as determined by the state department, the initial provisional license shall be renewed for six months. If the state department determines that there has not been substantial progress towards meeting licensure requirements at the time of the first full inspection provided by this section, or, if the state department determines upon its inspection made within 30 days of the termination of a renewed provisional license that there is lack of full compliance with such requirements, no further license shall be issued.

If an applicant for a provisional license to operate a health facility has been denied provisional licensing by the state department, he or she may contest such denial by filing a statement of issues, as provided in Section 11504 of the Government Code, and the proceedings to review such denial shall be conducted pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

The department shall not apply less stringent criteria when granting a provisional license pursuant to this section then it applies when granting a permanent license.

General acute care hospitals and acute psychiatric hospitals shall be exempt from the requirements of this section.

SEC. 5. Section 1575.3 is added to the Health and Safety Code, to read:

1575.3. (a) If a licensed adult day health center or an applicant for a license has not been previously licensed, the state department may only issue a provisional license to the center as provided in this section.

(b) A provisional license to operate an adult day health center shall terminate one year from the date of issuance.

(c) Within 30 days prior to the termination of a provisional license, the state department shall give such adult day health center a full and complete inspection, and, if the adult day health center meets all applicable requirements for licensure, a regular license shall be issued. If the adult day health center does not meet the requirements for licensure but has made substantial progress towards meeting such requirements, as determined by the state department, the initial provisional license shall be renewed for six months.

(d) If the state department determines that there has not been substantial progress towards meeting licensure requirements at the time of the first full inspection provided by this section, or, if the state department determines upon its inspection made within 30 days prior to the termination of a renewed provisional license that there is lack of full compliance with such requirements, no further license shall be issued.

(e) If an applicant for a provisional license to operate an adult day health center has been denied by the state department, the applicant may contest the denial by filing a statement of issues, as provided in

Section 11504 of the Government Code. The proceedings to review such denial shall be conducted pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) The department shall not apply less stringent criteria when granting a provisional license pursuant to this section then it applies when granting a permanent license.

SEC. 6. Section 1575.4 is added to the Health and Safety Code, to read:

1575.4. (a) The state department may issue a provisional license to an adult day health center if:

(1) The adult day health center and the applicant for licensure substantially meet the standards specified by this chapter and regulations adopted pursuant to this chapter.

(2) No violation of this chapter or regulations adopted under this chapter exists in the adult day health center which jeopardizes the health or safety of patients.

(3) The applicant has adopted a plan for correction of any existing violations which is satisfactory to the state department.

(b) A provisional license issued under this section shall expire not later than one year after the date of issuance, or at such earlier time as determined by the state department at the time of issuance, and may not be renewed.

(c) The department shall not apply less stringent criteria when granting a provisional license pursuant to this section then it applies when granting a permanent license.

SEC. 7. Section 1728.2 is added to the Health and Safety Code, to read:

1728.2. (a) If a home health agency or an applicant for a license has not been previously licensed, the state department may only issue a provisional license to the agency as provided in this section.

(b) A provisional license to operate a home health agency shall terminate six months from the date of issuance.

(c) Within 30 days prior to the termination of a provisional license, the state department shall give the agency a full and complete inspection, and, if the agency meets all applicable requirements for licensure, a regular license shall be issued. If the home health agency does not meet the requirements for licensure but has made substantial progress towards meeting such requirements, as determined by the state department, the initial provisional license shall be renewed for six months.

(d) If the state department determines that there has not been substantial progress towards meeting licensure requirements at the time of the first full inspection provided by this section, or, if the state department determines upon its inspection made within 30 days of the termination of a renewed provisional license that there is lack of full compliance with such requirements, no further license shall be issued.

(e) If an applicant for a provisional license to operate a home

health agency has been denied provisional licensing by the state department, the applicant may contest the denial by filing a statement of issues, as provided in Section 11504 of the Government Code, and the proceedings to review denial shall be conducted pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) The department shall not apply less stringent criteria when granting a provisional license pursuant to this section then it applies when granting a permanent license.

SEC. 8. Section 1728.3 is added to the Health and Safety Code, to read:

1728.3. Notwithstanding the provisions of Sections 1728.1 and 1732, the state department may issue a provisional license to a home health agency if:

(a) The agency and the applicant for licensure substantially meet the standards specified by this chapter and regulations adopted pursuant to this chapter.

(b) No violation of this chapter or regulations adopted under this chapter exists in the agency which jeopardizes the health or safety of patients.

(c) The applicant has adopted a plan for correction of any existing violations which is satisfactory to the state department.

A provisional license issued under this section shall expire not later than six months after the date of issuance, or at such earlier time as determined by the state department at the time of issuance, and may not be renewed.

The department shall not apply less stringent criteria when granting a provisional license pursuant to this section then it applies when granting a permanent license.

CHAPTER 1457

An act to amend Sections 15820.62 and 15820.71 of, and to add Section 15834 to, the Government Code, relating to postsecondary education.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 15820.62 of the Government Code is amended to read:

15820.62. New projects may be authorized pursuant to this chapter only through June 30, 1994.

SEC. 2. Section 15820.71 of the Government Code is amended to read:

15820.71. (a) For the purposes of this chapter the board may

finance the construction, renovation, and equipping of facilities or acquisition of equipment, or both, on a site or sites owned by, or subject to a lease or option to purchase held by, the University of California, the California State University, the California Maritime Academy, or the community college districts.

(b) The board shall lease-purchase to the Regents of the University of California and lease or lease-purchase to the Trustees of the California State University, the Board of Governors of the California Maritime Academy, and the community college districts, pursuant to Chapter 4 (commencing with Section 81800) of Part 49 of the Education Code, any public building or facility, constructed or renovated and equipped, or any equipment purchased pursuant to this chapter. The duration of each lease or lease-purchase agreement and the amount to be paid under each lease or lease-purchase agreement shall be determined by mutual agreement of the parties. The board shall contract with the lessee for all activities required to acquire equipment or to plan, construct, renovate, and equip facilities.

(c) For purposes of financing the improvements described in subdivision (a), the governing bodies shall certify to the Legislature that each project will result in reduced operating costs or increased income, or both, of these institutions and that the reduction in operating costs or the increase in income, or both, of these institutions will amortize the investment of the board over a reasonable period of time.

(d) Savings in operating costs or increases in income, or both, from the improvements described in subdivision (a) shall be available to the institutions for the purposes of making the lease or lease-purchase payments to the board. In addition, these institutions, upon completion of the obligations to the board, shall use any remaining savings for further improvements in these institutions.

(e) The cost of any improvement authorized by statute pursuant to this chapter shall be considered an expenditure of state or community college district funds in the fiscal year in which payments are made to the board under the terms of the lease or lease-purchase agreement.

SEC. 3. Section 15834 is added to the Government Code, to read:

15834. It is the intent of the Legislature that, prior to the appropriation of any moneys for purposes of Chapter 3.5 (commencing with Section 15820), Chapter 3.6 (commencing with Section 15820.15), Chapter 3.7 (commencing with Section 15820.30), or Chapter 3.8 (commencing with Section 15820.50), consideration be given to funding those purposes from general obligation bond proceeds or from the Capital Outlay Fund for Public Higher Education.

CHAPTER 1458

An act to add Sections 511.5, 1002.5, and 29207 to the Elections Code, relating to voter registration.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 511.5 is added to the Elections Code, to read:

511.5. (a) Affidavits of registration in possession of an elections official for purposes of filing pursuant to Section 511 shall be maintained on file as a public record.

(b) Any person having on file with the county clerk or registrar of voters an affidavit of registration may have the information relating to his or her residence address and telephone number appearing on the affidavit of registration, or any list of roster or index prepared therefrom declared confidential upon order of a superior court, issued upon a showing of good cause that a life threatening circumstance exists to the voter or a member of the voter's household and naming the county clerk or registrar of voters as a party.

(c) Any person granted confidentiality under subdivision (b) shall:

(1) Be considered an absent voter for all subsequent elections or until the county clerk or registrar of voters is notified otherwise by the court or in writing by the voter. A voter requesting termination of absent voter status thereby consents to placement of his or her residence address and telephone number in the roster of voters.

(2) In addition to the required residence address, provide a valid mailing address to be used in place of the residence address for election, scholarly or political research, and government purposes. The elections official, in producing any list, roster, or index may, at his or her choice, use the valid mailing address or the word "confidential" or some similar designation in place of the residence address.

(d) No action in negligence may be maintained against any government entity or officer or employee thereof as a result of disclosure of the information which is the subject of this section unless by a showing of gross negligence or willfulness.

SEC. 2. Section 1002.5 is added to the Elections Code, to read:

1002.5. (a) Notwithstanding Section 1002, a person granted confidentiality pursuant to Section 511.5 shall be considered an absent voter.

(b) The provisions of Chapter 7 (commencing with Section 1450) of Division 2 relating to permanent absent voters shall apply so far as they may be consistent with this section and Section 511.5.

(c) All persons granted confidentiality pursuant to Section 511.5

shall (1) be required to vote by mail ballot, and (2) in addition to the required residence address, provide a valid mailing address to the county clerk to be used in place of the residence address.

SEC. 3. Section 29207 is added to the Elections Code, to read:

29207. Any person in possession of information obtained pursuant to Section 604 for election purposes, or pursuant to Section 607 for election, scholarly or political research, or governmental purposes, who knowingly uses or permits the use of all or any part of that information for any purpose other than an election, scholarly or political research, or governmental purpose, or who furnishes that information for the use of another, unless the information is furnished for election, scholarly or political research, or governmental purposes, is guilty of a misdemeanor.

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 1459

An act to amend Sections 11166, 11166.5, 11167.5, and 11172 of, to add Sections 11165.4, 11165.7, 11165.8, 11165.9, 11165.10, 11165.11, and 11165.12 to, to repeal and add Sections 11165, 11165.1, 11165.2, 11165.3, 11165.5, and 11165.6 of, the Penal Code, and to amend Sections 16501.1 and 16504 of the Welfare and Institutions Code, relating to child abuse reporting.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 11165 of the Penal Code is repealed.

SEC. 2. Section 11165 is added to the Penal Code, to read:

11165. As used in this article "child" means a person under the age of 18 years.

SEC. 3. Section 11165.1 of the Penal Code, as added by Chapter 1572 of the Statutes of 1985, is repealed.

SEC. 4. Section 11165.1 of the Penal Code, as added by Chapter 1593 of the Statutes of 1985, is repealed.

SEC. 5. Section 11165.1 is added to the Penal Code, to read:

11165.1. As used in this article, "sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(a) "Sexual assault" means conduct in violation of one or more of the following sections: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288

(lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

(b) Conduct described as "sexual assault" includes, but is not limited to, all of the following:

(1) Any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen.

(2) Any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.

(3) Any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that, it does not include acts performed for a valid medical purpose.

(4) The intentional touching of the genitals or intimate parts (including the breasts, genital area, groin, inner thighs, and buttocks) or the clothing covering them, of a child, or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that, it does not include acts which may reasonably be construed to be normal caretaker responsibilities; interactions with, or demonstrations of affection for, the child; or acts performed for a valid medical purpose.

(5) The intentional masturbation of the perpetrator's genitals in the presence of a child.

(c) "Sexual exploitation" refers to any of the following:

(1) 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).

(2) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any person responsible for a child's welfare, who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or a live performance involving obscene sexual conduct, or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, drawing, painting, or other pictorial depiction, involving obscene sexual conduct. For the purpose of this section, "person responsible for a child's welfare" means a parent, guardian, foster parent, or a licensed administrator or employee of a public or private residential home, residential school, or other residential institution.

(3) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, video tape, 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.

SEC. 6. Section 11165.2 of the Penal Code is repealed.

SEC. 7. Section 11165.2 is added to the Penal Code, to read:

11165.2. As used in this article, "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.

(a) "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 Section 11165.3, including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(b) "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 does not constitute neglect.

SEC. 8. Section 11165.3 of the Penal Code is repealed.

SEC. 9. Section 11165.3 is added to the Penal Code, to read:

11165.3. As used in this article, "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.

SEC. 10. Section 11165.4 is added to the Penal Code, to read:

11165.4. As used in this article, "unlawful 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. It does not include an amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to person or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the pupil, as authorized by Section 49001 of the Education Code. It also does not include the exercise of the degree of physical control authorized by Section 44807 of the Education Code.

SEC. 11. Section 11165.5 of the Penal Code is repealed.

SEC. 12. Section 11165.5 is added to the Penal Code, to read:

11165.5. As used in this article, "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 unlawful 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 any facility licensed to care for children, or an administrator or employee of a public or private school or other institution or agency.

SEC. 12.5. Section 11165.6 of the Penal Code is repealed.

SEC. 13. Section 11165.6 is added to the Penal Code, to read:

11165.6. As used in this article, "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 (unlawful 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. "Child abuse" does not mean a mutual affray between minors.

SEC. 14. Section 11165.7 is added to the Penal Code, to read:

11165.7. (a) As used in this article, "child care custodian" means a teacher; 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; 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; an 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 licensed community care or child day care facility; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; an employee of a child care institution including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social worker or a probation officer or any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.

(b) Training in the duties imposed by this article shall include training in child abuse identification and training in child abuse reporting. As part of that training, school districts shall provide to all employees being trained a written copy of the reporting requirements and a written disclosure of the employees' confidentiality rights.

(c) School districts which do not train the employees specified in subdivision (a) 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. 15. Section 11165.8 is added to the Penal Code, to read:

11165.8. As used in this article, "health practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code; a marriage, family and child counselor; 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; 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 venereal disease or any other condition; a coroner; or a religious practitioner who diagnoses, examines, or treats children.

SEC. 16. Section 11165.9 is added to the Penal Code, to read:

11165.9. As used in this article, "child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department. It does not include a school district police or security department.

SEC. 17. Section 11165.10 is added to the Penal Code, to read:

11165.10. As used in this article, "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. 18. Section 11165.11 is added to the Penal Code, to read:

11165.11. As used in this article, "licensing agency" means the State Department of Social Services office responsible for the licensing and enforcement of the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code), the California Child Day Care Act (Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code), and 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.

SEC. 19. Section 11165.12 is added to the Penal Code, to read:

11165.12. As used in this article, "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 11165.6.

SEC. 20. Section 11166 of the Penal Code is amended to read:

11166. (a) Except as provided in subdivision (b), 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 child abuse shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. For the purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse. For the purpose of this article, the pregnancy of a minor does not, in and of itself, constitute the basis of reasonable suspicion of sexual abuse.

(b) Any child care custodian, health practitioner, or employee of a child protective agency who has knowledge of or who reasonably suspects that mental suffering has been inflicted on a child or his or her emotional well-being is endangered in any other way, may report such known or suspected instance of child abuse to a child protective agency.

(c) Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, video tape, negative or slide depicting a child under the age of 14 years engaged in an act of sexual conduct, shall report such instance of suspected child abuse to the law enforcement agency having jurisdiction over the case immediately or as soon as practically possible by telephone and shall prepare and send a written report of it with a copy of the film, photograph, video tape, negative or slide attached within 36 hours of receiving the information concerning the incident. As used in this subdivision, "sexual conduct" means any of the following:

(1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

(2) Penetration of the vagina or rectum by any object.

(3) Masturbation, for the purpose of sexual stimulation of the viewer.

(4) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.

(5) Exhibition of the genitals, pubic or rectal areas of any person for the purpose of sexual stimulation of the viewer.

(d) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse may report the known or suspected instance of child abuse to a child protective agency.

(e) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of child abuse, and when there is agreement among them, the

telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by such selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so, shall thereafter make the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties and no person making such a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with the provisions of this article.

The internal procedures shall not require any employee required to make reports by this article to disclose his or her identity to the employer.

(g) A county probation or welfare department shall immediately or as soon as practically possible report by telephone to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall only be reported to the county welfare department. A county probation or welfare department 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.

A law enforcement agency shall immediately or as soon as practically possible report by telephone to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall only be reported to the county welfare department. A law enforcement agency shall report to the county welfare department every known or suspected instance of child abuse reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement 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. 21. 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, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse to report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

"Child care custodian" includes teachers; 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; 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; 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 licensed community care or child day care facilities; 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; or any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.

"Health practitioner" includes physicians and surgeons, psychiatrists, psychologists, dentists, residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists, optometrists, or any other person who is licensed under Division 2 (commencing with Section 500) of the Business and Professions Code; marriage, family and child counselors; 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; psychological assistants registered pursuant to Section 2913 of the Business and Professions Code; marriage, family and child counselor trainees as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code; 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; 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 subdivision (a) 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 subdivision (a), 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. 22. Section 11167.5 of the Penal Code, as amended by Section 7.5 of Chapter 1598 of the Statutes of 1985, 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 Section 11165.7.

(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.

(7) Hospital scan teams. As used in this paragraph, "hospital scan team" means a team of three or more persons established by a hospital, or two or more hospitals in the same county, consisting of health care professionals and representatives of law enforcement and child protective services, the members of which are engaged in the identification of child abuse. The disclosure authorized by this section includes disclosure among hospital scan teams located in the same county.

(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. 23. Section 11172 of the Penal Code is amended to read:

11172. (a) No child care custodian, health 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 or was made with reckless disregard of the truth or falsity of the report, and any such person who makes a report of child abuse known to be false or with reckless disregard of the truth or falsity of the report is liable for any damages caused. 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, 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. 24. Section 16501.1 of the Welfare and Institutions Code is amended to read:

16501.1. Preplacement Preventive Services are those services which are designed to help children remain with their families by preventing or eliminating the need for removal.

(a) The Emergency Response Program is a component of Preplacement Preventive Services and is a response system which provides in-person response, 24 hours a day, seven days a week to reports of abuse, neglect, or exploitation, for the purpose of providing initial intake services and crisis intervention to maintain the child safely in his or her own home or to protect the safety of the child. County welfare departments shall respond to any report of imminent danger to a child immediately and all other reports within 10 calendar days. An in-person response is not required when the county welfare department, based upon an assessment, determines

that an in-person response is not appropriate. An assessment includes collateral contacts, a review of previous referrals, and other relevant information, as indicated.

(b) The Family Maintenance Program is a component of Preplacement Preventive Services and is designed to provide time-limited protective services to prevent or remedy neglect, abuse, or exploitation, for the purposes of preventing separation of children from their families.

This section shall become operative on October 1, 1983, unless a later enacted statute extends or deletes that date.

SEC. 25. Section 16504 of the Welfare and Institutions Code is amended to read:

16504. Any child reported to the county welfare department to be endangered by abuse, neglect, or exploitation shall be eligible for initial intake and assessment services. Each county welfare department shall maintain and operate a 24-hour response system. An immediate in-person response shall be made by a county welfare department social worker in emergency situations in accordance with regulations of the department. The person making any initial response to a request for child welfare services shall consider providing appropriate social services to maintain the child safely in his or her own home. However, an in-person response is not required when the county welfare department, based upon an assessment, determines that an in-person response is not appropriate. An assessment includes collateral contacts, a review of previous referrals, and other relevant information, as indicated.

This section shall become operative on October 1, 1983, unless a later enacted statute extends or deletes that date.

SEC. 26. 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.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1460

An act to add Section 50803.5 to, and to amend Section 50517.5 of the Health and Safety Code, relating to housing.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 50517.5 of the Health and Safety Code is amended to read:

50517.5. (a) The department shall establish a Farmworker Housing Grant Program under which, subject to the availability of funds therefor, grants shall be made to local public entities and nonprofit corporations for the construction or rehabilitation of housing for agricultural employees and their families. Under this program, grants may also be made for the purchase of land in connection with housing assisted pursuant to this section and for the construction and rehabilitation of related support facilities necessary to the housing. In its administration of this program, the department shall disburse grant funds to the local public entities and nonprofit corporations or may, at the request of the local public entity or nonprofit corporation which sponsors and supervises the rehabilitation program, disburse grant funds to agricultural employees who are participants in a rehabilitation program sponsored and supervised by the local public entity or nonprofit corporation. No part of a grant made pursuant to this section may be used for project organization or planning.

The program shall be administered by the Director of Housing and Community Development and officers and employees of the department as he or she may designate.

It is the intent of the Legislature that, in administering the program, the director shall facilitate, to the greatest extent possible, the construction and rehabilitation of permanent dwellings for year-round occupancy and ownership by agricultural employees, including ownership of the sites upon which the dwellings are located.

(b) The Farmworker Housing Grant Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the department for making grants pursuant to this section and for costs incurred by the department in administering the grant program.

There shall be paid into the fund the following:

(1) Any moneys appropriated and made available by the Legislature for purposes of the fund.

(2) Any moneys which the department receives in repayment or return of grants from the fund, including any interest therefrom.

(3) Any other moneys which may be made available to the department for the purposes of this chapter from any other source or sources.

(c) Grants made pursuant to this section shall be matched by grantees with at least equal amounts of federal moneys, other cash investments, or in-kind contributions.

(d) With respect to the supervision of grantees, the department shall do the following:

(1) Establish minimum capital reserves to be maintained by grantees.

(2) Fix and alter from time to time a schedule of rents such as may be necessary to provide residents of housing assisted pursuant to this section with affordable rents to the extent consistent with the maintenance of the financial integrity of the housing project. No grantee shall increase the rent on any unit constructed or rehabilitated with the assistance of funds granted pursuant to this section without the prior permission of the department, which shall be given only if the grantee affirmatively demonstrates that the increase is required to defray necessary operating costs or avoid jeopardizing the fiscal integrity of the housing project.

(3) Determine standards for, and control selection by grantees of, tenants and subsequent purchasers of housing constructed or rehabilitated with the assistance of funds granted pursuant to this section.

(4) Require as a condition precedent to a grant of funds that the grantee be record owner in fee of the assisted real property and that the grantee shall have entered into a written agreement with the department binding upon the grantee and successors in interest to the grantee. The agreement shall include the conditions under which the funds advanced may be repaid. The agreement shall include provisions for a lien on the assisted real property in favor of the State of California for the purpose of securing performance of the agreement. The agreement shall also provide that the lien shall endure until released by the Director of Housing and Community Development.

In the event that funds granted pursuant to this section constitute less than 25 percent of the total development cost or value, whichever is applicable, of a project assisted under this section, the department may adopt, by regulation, criteria for determining the number of units in a project to which the restrictions on occupancy contained in the agreement apply. In no event may these regulations provide for the application of the agreement to a percentage of units in a project which is less than the percentage of total development costs which funds granted pursuant to this section represent.

Contemporaneously with the disbursement of the initial funds to a grantee, the department shall cause to be recorded, in the office of the county recorder of the county in which the assisted real property is located, a notice of lien executed by the Director of Housing and Community Development. The notice of lien shall refer

to the agreement required by this paragraph for which it secures and it shall include a legal description of the assisted real property which is subject to the lien. The notice of lien shall be indexed by the recorder in the Grantor Index to the name of the grantee and in the Grantee Index to the name of the State of California, Department of Housing and Community Development. The department shall adopt by regulation criteria for the determination of the lien period. Such regulation shall take into account whether the property is held by multifamily rental, single-family ownership, or cooperative ownership and whether it is new construction or rehabilitative construction.

Pursuant to regulations adopted by the department, the department may execute and cause to be recorded in the office of the recorder of the county in which a notice of lien has been recorded, a subordination of the lien. The regulations adopted by the department shall provide that any subordination of the lien shall not jeopardize the security interest of the state and shall further the interest of farmworker housing. The recitals contained in the subordination shall be conclusive in favor of any bona fide purchaser or lender relying thereon.

(5) Regulate the terms of occupancy agreements or resale controls, to be used in housing assisted pursuant to this section.

(6) Provide bilingual services and publications, or require grantees to do so, as necessary to implement the purposes of this section.

(7) The agreement between the department and the grantee shall provide, among other things, that:

(A) Upon the sale or conveyance of the real property, or any part thereof, for use other than for agricultural employee occupancy, the grantee or its successors shall, as a condition for the release of the lien provided pursuant to paragraph (4), repay to the fund the department's grant funds.

(B) Upon the sale or conveyance of the real property or any part thereof for continued agricultural employee occupancy, the transferee shall assume the obligation of the transferor and the real property shall be transferred to the new owner; provided that the transferee agrees to abide by the agreement entered into between the transferor and the department and that the new owner takes the property subject to the lien provided pursuant to paragraph (4), except that this lien shall, at the time of the transfer of the property to the new owner, be extended for an additional lien period determined by the department pursuant to paragraph (4), and the new owner shall not be credited with the lien period that had run from the time the transferor had acquired the property to the time of transfer to the new owner, unless the department determines that it is in the best interest of the state and consistent with the intent of this section to so credit the lien period to the new owner. However, the lien shall have priority as of the recording date of the lien for the original grantee, pursuant to paragraph (4).

(e) The department may do any of the following with respect to grantees:

(1) Through its agents or employees enter upon and inspect the lands, buildings, and equipment of a grantee, including books and records, at any time before, during, or after construction or rehabilitation of units assisted pursuant to this section. However, there shall be no entry or inspection of any unit which is occupied, whether or not any occupant is actually present, without the consent of the occupant.

(2) Supervise the operation and maintenance of any housing assisted pursuant to this section and order repairs as may be necessary to protect the public interest or the health, safety, or welfare of occupants of the housing.

(f) The department shall include in its annual report required by Section 50408, a current report of the Farmworker Housing Grant Program. The report shall include, but need not be limited to, (1) the number of households assisted, (2) the average income of households assisted and the distribution of annual incomes among assisted households, (3) the rents paid by households assisted, (4) the number and amount of grants made to each nonprofit corporation and local public entity in the preceding year, (5) the dollar value of funding derived from sources other than the state for each project receiving a grant under this section, and an identification of each source, (6) recommendations, as needed, to improve operations of the program and respecting the desirability of extending its application to other groups in rural areas identified by the department as having special need for state housing assistance, and (7) the number of manufactured housing units assisted under this section.

(g) As used in this section:

(1) "Agricultural employee" has the same meaning as specified in subdivision (b) of Section 1140.4 of the Labor Code.

(2) "Grantee" means the local public entity or nonprofit corporation that is awarded the grant under this section and, at the request thereof, may include an individual homeowner receiving direct payment of a grant for rehabilitation under this section who occupies the assisted housing both before and after the rehabilitation and who is a participant in a rehabilitation program sponsored and supervised by a local public entity or nonprofit corporation.

(3) "Housing" may include, but need not be limited to, conventionally constructed units, and manufactured housing.

SEC. 2. Section 50803.5 is added to the Health and Safety Code, to read:

50803.5. (a) The department shall not approve any application for a grant under this chapter if a representative of the applicant participates or votes on the review, evaluation, or ranking of the applicant's application as part of any review process authorized pursuant to department regulations. The department shall ensure that if an incorporated or unincorporated organization or

governmental agency designated by the department to solicit, review, and recommend ranking for applications from a regional area defined by the department uses a subcommittee for the purpose of reviewing, ranking, and recommending applications for funding, no member of the subcommittee shall be an officer, employee, or agent of, or in any other way have an interest in, any organization applying for such funds. "Interest," as used in this subdivision shall include, but not be limited to, financial, organizational, or contractual relationships affecting the emergency shelter activities of the applicant, and shall not include the provision of uncompensated technical assistance or other forms of uncompensated assistance to the organization.

(b) The initial notice provided by the department of funding for grants shall be transmitted not later than 45 days after the Budget Bill or other statute providing that funding is chaptered.

(c) If the department requires an application for a grant to be submitted to an incorporated or unincorporated organization or governmental agency designated by the department to solicit, review, and recommend ranking for applications from a regional area defined by the department, the department shall allow at least six weeks for completion of that review before acting on the application.

(d) In approving grants the department shall ensure a fair geographical distribution of funds to needy areas and consider in making its decision the prior award of grants under this program.

CHAPTER 1461

An act to amend Sections 12020, 12028, and 12029 of the Penal Code, relating to crime.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any flechette dart, any bullet containing or carrying an explosive agent, any ballistic knife, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, nunchaku, sandclub, sandbag, sawed-off shotgun, or metal knuckles, or who carries concealed upon his or her person any explosive substance, other than fixed ammunition or who carries concealed

upon his or her person any dirk or dagger, is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison. A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

(1) The manufacture, possession, transportation or use, with blank cartridges, of sawed-off shotguns solely as props for motion picture film or television program production when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and not in violation of federal law.

(2) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(3) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(5) Tracer ammunition manufactured for use in shotguns.

(6) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess such items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from possessing such firearms or ammunition who obtains title to such items by bequest or intestate succession may retain title for not more than one year, but actual possession of such items at any time shall be punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within such year the person shall transfer title to such firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(7) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare

and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within that year the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(c) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison.

(d) (1) As used in this section, a "sawed-off shotgun" means any firearm (including any revolver) manufactured, designed, or converted to fire shotgun ammunition having a barrel or barrels of less than 18 inches in length, or a rifle having a barrel or barrels of less than 16 inches in length, or any weapon made from a rifle or shotgun (whether by manufacture, alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

(2) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(3) As used in this section, a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if such firearm may be fired while mounted or enclosed in such case.

(4) As used in this section, a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch or similar device, designed to be or capable of being used as an aid in walking, if such firearm may be fired while mounted or enclosed therein.

(5) As used in this section, a "flechette dart" means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths of an inch of the body.

(6) As used in this section, "metal knuckles" means any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer's hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the

hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

(7) As used in this section, "ballistic knife" means a device that propels a knife-like blade as a projectile by means of a coil spring, elastic material, or compressed gas. Ballistic knife does not include any device which propels an arrow or a bolt by means of any common bow, compound bow, crossbow, or underwater spear gun.

(8) As used in this section, "camouflaging firearm container" means a container which meets all of the following:

(A) It is designed and intended to enclose a firearm.

(B) It is designed and intended to allow the firing of the enclosed firearm by external controls while the firearm is in the container.

(C) It is not readily recognizable as containing a firearm.

"Camouflaging firearm container" does not include any camouflaging covering used while engaged in lawful hunting or while going to or returning from a lawful hunting expedition.

(e) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 2. Section 12028 of the Penal Code is amended to read:

12028. (a) The unlawful concealed carrying upon the person or within the vehicle of the carrier of any explosive substance, other than fixed ammunition, dirk, or dagger, as provided in Section 12020, the unlawful concealed carrying upon the person or within the vehicle of the carrier of any of the weapons mentioned in Section 12025, and the unlawful possession or carrying of any item in violation of Section 653k is a nuisance.

(b) A firearm of any nature used in the commission of any misdemeanor as provided in this code or any felony, or an attempt to commit any misdemeanor as provided in this code or any felony, is, upon a conviction of the defendant, or upon a juvenile court finding that an offense which would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, a nuisance. A finding that the defendant was guilty of the offense but was insane at the time the offense was committed is a conviction for the purposes of this section.

(c) Any weapon described in subdivision (a), or, upon conviction of the defendant or a juvenile court finding that an offense which would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, any weapon described in subdivision (b), shall be surrendered to the sheriff of a county or the chief of police or other head of a municipal police department of any city or city and county. The officers to whom the weapons are surrendered, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention thereof is necessary or proper to the ends of justice, may annually, between the 1st and 10th days of July, in each year, offer the weapons, which the officers in charge of them consider to have value with respect to sporting, recreational, or

collection purposes, for sale at public auction to persons licensed under federal law to engage in businesses involving any weapon purchased. If any weapon has been stolen and is thereafter recovered from the thief or his or her transferee, or is used in such a manner as to constitute a nuisance pursuant to subdivision (a) or (b) without the prior knowledge of its lawful owner that it would be so used, it shall not be so offered for sale but shall be restored to the lawful owner, as soon as its use as evidence has been served, upon his or her identification of the weapon and proof of ownership.

(d) If, under this section, a weapon is not of the type that can be sold to the public, generally, or is not sold pursuant to subdivision (c) the weapon shall in the month of July, next succeeding, or sooner, if necessary to conserve local resources including space and utilization of personnel who maintain files and security of those weapons, be destroyed so that it can no longer be used as such weapon except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention of it is necessary or proper to the ends of justice.

(e) This section shall not apply to any firearm in the possession of the Department of Fish and Game or which was used in the violation of any provision of law, or regulation thereunder, in the Fish and Game Code.

(f) No stolen weapon shall be sold or destroyed pursuant to subdivision (c) or (d) unless reasonable notice is given to its lawful owner, if his or her identity and address can be reasonably ascertained.

SEC. 2.5. Section 12028 of the Penal Code is amended to read:

12028. (a) The unlawful concealed carrying upon the person or within the vehicle of the carrier of any explosive substance, other than fixed ammunition, dirk, or dagger, as provided in Section 12020, the unlawful concealed carrying upon the person or within the vehicle or the carrier of any of the weapons mentioned in Section 12025, and the unlawful possession or carrying of any item in violation of Section 653k is a nuisance.

(b) A firearm of any nature used in the commission of any misdemeanor as provided in this code or any felony, or an attempt to commit any misdemeanor as provided in this code or any felony, is, upon a conviction of the defendant, or upon a juvenile court finding that an offense which would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, a nuisance. A finding that the defendant was guilty of the offense but was insane at the time the offense was committed is a conviction for the purposes of this section.

(c) Any weapon described in subdivision (a), or, upon conviction of the defendant or a juvenile court finding that an offense which would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, any weapon described in subdivision (b), shall be surrendered to the sheriff of a county or the chief of police or other head of a municipal

police department of any city or city and county. The officers to whom the weapons are surrendered, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention thereof is necessary or proper to the ends of justice, may annually, between the 1st and 10th days of July, in each year, offer the weapons, which the officers in charge of them consider to have value with respect to sporting, recreational, or collection purposes, for sale at public auction to persons licensed under federal law to engage in businesses involving any weapon purchased. If any weapon has been stolen and is thereafter recovered from the thief or his or her transferee, or is used in such a manner as to constitute a nuisance pursuant to subdivision (a) or (b) without the prior knowledge of its lawful owner that it would be so used, it shall not be so offered for sale but shall be restored to the lawful owner, as soon as its use as evidence has been served, upon his or her identification of the weapon and proof of ownership.

(d) If, under this section, a weapon is not of the type that can be sold to the public, generally, or is not sold pursuant to subdivision (c) the weapon shall in the month of July, next succeeding, or sooner, if necessary to conserve local resources including space and utilization of personnel who maintain files and security of those weapons, be destroyed so that it can no longer be used as such weapon except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention of it is necessary or proper to the ends of justice.

(e) This section does not apply to any firearm in the possession of the Department of Fish and Game or which was used in the violation of any provision of in the Fish and Game Code or any regulation adopted pursuant thereto, or which is forfeited pursuant to Section 5008.6 of the Public Resources Code.

(f) No stolen weapon shall be sold or destroyed pursuant to subdivision (c) or (d) unless reasonable notice is given to its lawful owner, if his or her identity and address can be reasonably ascertained.

SEC. 3. Section 12029 of the Penal Code is amended to read:

12029. Except as provided in Section 12020, blackjacks, slungshots, billies, nunchakus, sandclubs, sandbags, metal knuckles, any instrument described in subdivision (c) of Section 12020, sawed-off shotguns as defined in Section 12020, and any other item which is listed in subdivision (a) of Section 12020 and is not listed in subdivision (a) of Section 12028 are nuisances. These weapons shall be subject to confiscation and summary destruction whenever found within the state. These weapons shall be destroyed in the same manner as other weapons described in Section 12028, except that upon the certification of a judge or of the district attorney that the ends of justice will be subserved thereby, the weapon shall be preserved until the necessity for its use ceases.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 12028 of the Penal Code proposed by both this bill and AB

1680. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1988, (2) each bill amends Section 12028 of the Penal Code, and (3) this bill is enacted after AB 1680, in which case Section 2 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 1462

An act to amend Sections 667.9, 13844, and 13845 of, and to add Sections 1203.1j and 13823.2 to, the Penal Code, relating to crimes.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 667.9 of the Penal Code is amended to read:

667.9. (a) Any person who has a prior conviction for any of the offenses listed in subdivision (b), and who commits one or more of the crimes listed in subdivision (b) against a person who is 65 years of age or older, or against a person who is blind, a paraplegic, or a quadriplegic, or against a person who is under the age of 14 years, and that disability or condition is known or reasonably should be known to the person committing the crime, shall receive a two-year enhancement for each violation in addition to the sentence provided under Section 667.

(b) Subdivision (a) applies to the following crimes:

(1) Robbery, in violation of Section 211.

(2) Kidnapping, in violation of Section 207.

(3) Kidnapping for ransom, extortion, or robbery, in violation of Section 209.

(4) Rape by force, violence, or fear of immediate and unlawful bodily injury on the victim or another person in violation of subdivision (2) of Section 261.

(5) Sodomy or oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person in violation of Section 286 or 288a.

(6) Mayhem, as defined in Section 203.

(7) Burglary of the first degree, as defined in Section 460.

(c) The existence of any fact which would bring a person under subdivision (a) shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is

established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

SEC. 2. Section 1203.1j is added to the Penal Code, to read:

1203.1j. In any case in which the defendant is convicted of assault, battery, or assault with a deadly weapon on a victim 65 years of age or older, and the defendant knew or reasonably should have known the elderly status of the victim, the court, as a condition of probation, may order the defendant to make restitution for the costs of medical or psychological treatment incurred by the victim as a result of the crime, and that the defendant seek and maintain legitimate employment and apply that portion of his or her earnings specified by the court toward those costs.

The defendant shall be entitled to a hearing, concerning any modification of the amount of restitution, based on the costs of medical and psychological treatment incurred by the victim subsequent to the issuance of the order of probation.

SEC. 3. Section 13823.2 is added to the Penal Code, to read:

13823.2. (a) The Legislature hereby finds and declares all of the following:

(1) That violent and serious crimes are being committed against the elderly on an alarmingly regular basis.

(2) That in 1985, the United States Department of Justice reported that approximately 1 in every 10 elderly households in the nation would be touched by crime.

(3) That the California Department of Justice, based upon limited data received from local law enforcement agencies, reported that approximately 10,000 violent crimes were committed against elderly victims in 1985.

(4) That while the elderly may not be the most frequent targets of crime, when they are victimized the impact of each vicious attack has long-lasting effects. Injuries involving, for example, a broken hip may never heal properly and often leave the victim physically impaired. The loss of money used for food and other daily living expenses for these costs may be life-threatening for the older citizen on a fixed income. In addition, stolen or damaged property often cannot be replaced.

(5) Although the State of California currently funds programs to provide assistance to victims of crime and to provide general crime prevention information, there are limited specialized efforts to respond directly to the needs of elderly victims or to provide prevention services tailored for the senior population.

(b) It is the intent of the Legislature that victim services, crime prevention, and criminal justice training programs funded by the Office of Criminal Justice Planning shall include, consistent with available resources, specialized components that respond to the diverse needs of elderly citizens residing in the state.

SEC. 4. Section 13844 of the Penal Code is amended 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, elderly care custodians, state and local elderly service 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 in the following areas:

(A) Crime prevention information to elderly citizens regarding personal safety, fraud, theft, grand theft, burglary, and elderly abuse.

(B) Services designed to respond to the specific and diverse crime prevention needs of elderly residential communities.

(C) Specific services coordinated to assist in the installation of security devices or provision of escort services and victim assistance.

(2) Programs to provide training, information, and prevention literature to peace officers, elderly care custodians, health practitioners, and social service providers regarding physical abuse and neglect within residential health care facilities for the elderly.

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

(4) Personal safety programs. .

(5) Domestic violence prevention programs.

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

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

(8) 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.

(9) 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.

(7) Programs devoted to crime and delinquency prevention through the establishment of partnership initiatives utilizing elderly and juvenile volunteers.

(d) All approved programs shall utilize volunteers to assist in implementing and conducting community crime resistance programs. Programs providing elderly crime prevention programs shall recruit senior citizens to assist in providing services.

(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 compared to the degree of service to be offered by the program for the elderly population.

(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.

CHAPTER 1463

An act to add Section 23438 to the Business and Professions Code, and to add Sections 17269 and 24343.2 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 23438 is added to the Business and Professions Code, to read:

23438. (a) Any alcoholic beverage club licensee which restricts membership or the use of its services or facilities on the basis of age, sex, race, religion, color, ancestry, or national origin shall, when issuing a receipt for expenses which may otherwise be used by taxpayers for deduction purposes pursuant to Section 162(a) of the Internal Revenue Code, for purposes of the Personal Income Tax Law, or Section 24343 of the Revenue and Taxation Code, for

purposes of the Bank and Corporation Tax Law, incorporate a printed statement on the receipt as follows:

"The expenditures covered by this receipt are nondeductible for state income tax purposes or franchise tax purposes."

(b) For purposes of this section, the following terms have the following meanings:

(1) "Expenses" means expenses, as defined in Section 17269 or 24343.2 of the Revenue and Taxation Code.

(2) "Club" means a club holding an alcoholic beverage license pursuant to the provisions of this division, except a club holding an alcoholic beverage license pursuant to Section 23425.

SEC. 2. Section 17269 is added to the Revenue and Taxation Code, to read:

17269. Whereas, the people of the State of California desire to promote and achieve tax equity and fairness among all the state's citizens and further desire to conform to the public policy of nondiscrimination, the Legislature hereby enacts the following for these reasons and for no other purpose:

(a) The provisions of Section 162(a) of the Internal Revenue Code shall not be applicable to expenses incurred by a taxpayer with respect to expenditures made at, or payments made to, a club which restricts membership or the use of its services or facilities on the basis of age, sex, race, religion, color, ancestry, or national origin.

(b) A club described in subdivision (a) holding an alcoholic beverage license pursuant to Division 9 (commencing with Section 23000) of the Business and Professions Code, except a club holding an alcoholic beverage license pursuant to Section 23425 thereof, shall provide on each receipt furnished to a taxpayer a printed statement as follows:

"The expenditures covered by this receipt are nondeductible for state income tax purposes or franchise tax purposes."

(c) For purposes of this section:

(1) "Expenses" means those expenses otherwise deductible under Section 162(a) of the Internal Revenue Code, except for subdivision (a), and includes, but is not limited to, club membership dues and assessments, food and beverage expenses, expenses for services furnished by the club, and reimbursements or salary adjustments to officers or employees for any of the preceding expenses.

(2) "Club" means a club as defined in Division 9 (commencing with Section 23000) of the Business and Professions Code, except a club as defined in Section 23425 thereof.

SEC. 3. Section 24343.2 is added to the Revenue and Taxation Code, to read:

24343.2. Whereas, the people of the State of California desire to promote and achieve tax equity and fairness among all the state's citizens and further desire to conform to the public policy of nondiscrimination, the Legislature hereby enacts the following for these reasons and for no other purpose:

(a) No deduction shall be allowed under Section 24343 for

expenses incurred by a taxpayer with respect to expenditures made at, or payments made to, a club which restricts membership or the use of its services or facilities on the basis of age, sex, race, religion, color, ancestry, or national origin.

(b) A club described in subdivision (a) holding an alcoholic beverage license pursuant to Division 9 (commencing with Section 23000) of the Business and Professions Code, except a club holding an alcoholic beverage license pursuant to Section 23425 thereof, shall provide on each receipt furnished to a taxpayer a printed statement as follows:

"The expenditures covered by this receipt are nondeductible for state income tax purposes or franchise tax purposes."

(c) For purposes of this section:

(1) "Expenses" means those expenses otherwise deductible under Section 24343, except for subdivision (a), and includes, but is not limited to, club membership dues and assessments, food and beverage expenses, expenses for services furnished by the club, and reimbursements or salary adjustments to officers or employees for any of the preceding expenses.

(2) "Club" means a club as defined in Division 9 (commencing with Section 23000) of the Business and Professions Code, except a club as defined in Section 23425 thereof.

SEC. 4. This act is not intended to affect the tax exempt status of any church or other organization which is exempt from taxation under Section 23701d of the Revenue and Taxation Code.

SEC. 5. It is not intended that any inference be drawn as the result of the enactment of this act that the Legislature intended to preclude administrative regulations by the Franchise Tax Board which disallow business deductions on public policy grounds with respect to expenses incurred before the operative date of this act. However, as of the operative date of this act, any administrative regulations adopted by the Franchise Tax Board which are inconsistent with or contrary to this act shall be of no further force or effect.

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. 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 commencing on or after January 1, 1990.

CHAPTER 1464

An act to add Section 4850.1 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987]

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

SECTION 1. It is the intent of the Legislature that the additional environmental license plate option created by Section 4850.1 be financed by fees sufficient to cover the costs of the option.

SEC. 2. Section 4850.1 is added to the Vehicle Code, to read:

4850.1. An applicant for environmental license plates issued under Article 8.5 (commencing with Section 5100) of Chapter 1 of Division 3 may request either reflectorized license plates pursuant to Section 4850 or nonreflectorized blue and gold license plates without payment of any fee in addition to that required for environmental license plates pursuant to Section 5106.

CHAPTER 1465

An act to amend Section 24405 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 24405 of the Revenue and Taxation Code is amended to read:

24405. (a) In the case of other associations organized and operated in whole or in part on a cooperative or a mutual basis, all income resulting from or arising out of business activities for or with their members carried on by them or their agents, or when done on a nonprofit basis for or with nonmembers, shall be an allowable deduction. However, the deduction allowable under this section shall not apply to those cooperative or mutual associations whose income is principally derived from the sale in the regular course of business of tangible personal property other than water, agricultural products, or food sold at wholesale.

(b) For the purposes of subdivision (a), "food sold at wholesale" means a sale of food to anyone engaged in the business of selling food who holds a seller's permit issued pursuant to Section 6066, and who at the time of purchasing the food either:

(1) Intends to sell it in the regular course of business.

(2) Is unable to ascertain at the time of purchase whether the food will be sold or used for some other purpose.

(c) For the purposes of subdivision (a), a credit union's activities are "for or with" the members of the credit union if the activities involve the investment of surplus member savings capital in investments permitted for credit unions pursuant to Sections 14406, 14652, 14653, 14653.5, 14654, 14655, and 14656 of the Financial Code. "Surplus member savings capital" means the savings capital of credit union members which is in excess of the amount of savings capital which is loaned to members of the credit union. The term "savings capital" shall have the meaning set forth in subdivision (a) of Section 14400 of the Financial Code.

SEC. 2. It is not the intent of the Legislature to exempt, within the provisions of Section 24405 of the Revenue and Taxation Code, "equity capital," as that term is defined in subdivision (b) of Section 14400 of the Financial Code.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall be applied in the computation of taxes for income years commencing on or after January 1, 1988.

CHAPTER 1466

An act to add and repeal Section 15202.5 of the Government Code, relating to the counties, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 15202.5 is added to the Government Code, to read:

15202.5. (a) Notwithstanding any other provision of this chapter, the Controller, in the case of Sierra County because of its unique circumstances, shall reimburse Sierra County for costs incurred in the 1986–87 and 1987–88 fiscal years as a result of contracts for county counsel services.

(b) This section 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. 2. Sierra County has experienced a drastic increase in homicides recently. This has required the county counsel, who is also the district attorney for the county, to serve as district attorney full-time, leaving the responsibilities of the county counsel to be met

by contract civil attorneys. This additional cost has imposed an extreme burden on Sierra County. Due to these unique circumstances, the Legislature finds and declares that a statute of general application cannot be enacted within the meaning of Section 16 of Article IV of the Constitution.

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 Sierra County to be reimbursed as soon as possible for purposes of the 1986–87 and 1987–88 budgets for contract civil attorney services due to the unavailability of the usual county counsel representation, it is necessary that this act take effect immediately.

SEC. 4. There is hereby appropriated the sum of fifty-eight thousand dollars ($58,000) from the General Fund to the Controller for the reimbursement required by Section 1 of this act.

CHAPTER 1467

An act relating to the Department of Commerce.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987]

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

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

(a) That nonprofit organizations make significant contributions to California's citizens by providing a wide array of health, education, and social services.

(b) That small businesses have been the backbone of California's growing economy by providing 8 out of 10 jobs in the last decade.

(c) That small businesses survive and grow because they are effective competitors, yet, because of this competition, most businesses operate on a margin that cannot afford additional pressures.

(d) That the nonprofit sector traditionally comprised charitable organizations which survived on contributions from the public, providing services such as health care, education, and basic research that were not provided by the for-profit sector.

(e) That the transition of our nation from a manufacturing to a service-based economy has led to tremendous growth in the service-oriented nonprofit sector.

(f) That considerable cutbacks in federal funds and private contributions to nonprofit entities has resulted in a dependence upon commercial activities by these entities in order to replace

dwindling resources.

(g) That the commercial activities of nonprofit entities have, in some instances, created a perceived form of competition with the for-profit sector, since small businesses engaged in similar enterprises do not receive the same benefits as nonprofits and therefore cannot afford to offer a product at the same price.

(h) That other states have passed legislation restricting the tax-exempt activities of commercial nonprofit organizations, and Congress is considering the same action.

(i) That, in order to make reasonable decisions and influence Congress to do the same, there needs to be reliable data made available regarding the extent to which small businesses in the state face unfair competition from nonprofit entities, while also providing information on the negative impacts certain reforms would have on the ability of nonprofit entities to continue to operate.

(j) That information is also needed to assess the compatibility of small businesses and nonprofit entities in all sectors of the economy.

(k) That a study of reliable data should also contain the input of a broad based group of representatives from California's public and private universities, private industry, nonprofit organizations that conduct commercially competitive activities, and appropriate government agencies.

SEC. 2. (a) The Department of Commerce shall conduct a study to review, analyze, and document information regarding the growth of commercial nonprofit organizations and their competitive impact, if any, on California's small business community.

(b) The department may, if necessary, contract out for the study required by subdivision (a). In conducting the study all available resources shall be used, including, but not limited to, public hearings held by the Small Business Advisory Council inviting testimony and recommendations from the business and nonprofit commercial community.

(c) The department shall create an advisory task force to provide input to the study.

The advisory task force shall be comprised of the Director of the Department of Commerce or his or her designee who shall also serve as chairperson of the task force and all of the following members who shall be appointed by the director:

(1) The dean, or a representative, of a California public university business school.

(2) The dean, or a representative, of a California private university business school.

(3) Four persons, one of whom may be the owner of a small business, or representatives of small business organizations whose members are affected by the commercially competitive activities of nonprofit organizations.

(4) Two persons representing nonprofit organizations that conduct commercially competitive activities. One of these persons shall represent a nonprofit youth-serving organization which is

exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code.

(5) Representatives from other government agencies or departments as deemed necessary by the Director of the Department of Commerce.

The director may solicit private and public funds to pay for the expenses and per diem of the advisory task force members.

(d) The department shall complete the study no later than June 30, 1988, and report its findings and recommendations to the Governor, the Senate Committee on Rules, and the Speaker of the Assembly.

The task force shall remain constituted until June 30, 1988, or until the completion of the study, and, as of that date, is terminated unless a later enacted statute deletes or extends that date.

CHAPTER 1468

An act to amend Sections 44325, 44326, 44327, 44328, 44329, 44830.3, and 44885.5 of, to amend the heading of Article 7.5 (commencing with Section 44325) of Chapter 2 of Part 25 of, and to repeal Section 44274 of, the Education Code, relating to education.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 44274 of the Education Code is repealed.

SEC. 2. The heading of Article 7.5 (commencing with Section 44325) of Chapter 2 of Part 25 of the Education Code is amended to read:

Article 7.5. District Interns

SEC. 3. Section 44325 of the Education Code is amended to read:

44325. (a) The Commission on Teacher Credentialing shall issue district intern certificates authorizing persons employed by any school district that maintains kindergarten and grades 1 to 12, inclusive, or that maintains classes in bilingual education, to provide classroom instruction to pupils in those grades and classes in accordance with the requirements of Section 44830.3.

(b) Each district intern certificate shall be valid for a period of two years except that a certificate that authorizes the holder to teach a bilingual education class is valid for three years. Upon the recommendation of the governing board of the school district, the commission may grant a one-year extension of the district intern certificate.

(c) The commission shall require each applicant for a district

intern certificate to demonstrate that he or she meets the minimum qualifications for that certificate, including (1) the possession of a baccalaureate degree conferred by an accredited institution of postsecondary education, (2) the successful passage of the state basic skills proficiency test administered under Sections 44252 and 44252.5, (3) the appropriate subject matter examination administered by the commission for the subject areas in which the district intern is authorized to teach, and (4) the oral language component of the assessment program leading to the bilingual-crosscultural certificate of competence for persons seeking a district intern certificate to teach bilingual education classes.

(d) The commission shall apply the requirements of Sections 44339, 44340, and 44341 to each applicant for a district intern certificate.

SEC. 4. Section 44326 of the Education Code is amended to read:

44326. Persons holding district intern certificates issued by the commission under Section 44325 to teach in grades 9 to 12, inclusive, or in grades 6 to 8, inclusive, in a departmentalized program, or in departmentalized bilingual classes, shall only be authorized to teach in the subject areas in which they completed an undergraduate academic major or minor. Persons holding district intern certificates issued by the commission under Section 44325 to teach in kindergarten and grades 1 to 8, inclusive, in a self-contained program or in self-contained bilingual classes who have completed an academic major or minor or a diversified or liberal arts degree that includes the subject matter coursework prescribed in Section 44314 shall be authorized to teach in those grades, or classes. These persons shall be required to teach with the assistance and guidance of certificated employees of the district who have been classified as mentor teachers under the provisions of Article 4 (commencing with Section 44490) of Chapter 3, or with the assistance and guidance of certificated employees selected through a competitive process adopted by the governing board after consultation with the exclusive teacher representative unit or by personnel employed by institutions of higher education to supervise student teachers.

SEC. 5. Section 44327 of the Education Code is amended to read:

44327. (a) On or before July 1, 1988, the commission, in consultation with participating school districts and other affected organizations, shall adopt standards related to the quality of the training, support, evaluation, and performance of district interns. The standards shall be appropriate for an alternative program of teacher recruitment, preparation, and certification. To the extent feasible, the standards shall also be equivalent to the standards of the commission for professional preparation programs in colleges and universities.

(b) Commencing July 1, 1989, the commission shall periodically review district intern programs on the basis of the standards adopted pursuant to subdivision (a).

(c) The commission is not authorized to approve district intern

programs. On or before March 15, 1988, the commission shall inform all school districts in the state of the district intern program option, and shall disseminate its recommended standards to all districts.

SEC. 6. Section 44328 of the Education Code is amended to read:

44328. Unless the commission determines that substantial evidence exists that a person is unqualified to teach, upon the completion of successful service as a district intern pursuant to subdivision (b) of Section 44325, and upon the recommendation of the school district governing board, the commission shall award clear credentials to district interns in the same manner as applicants recommended for credentials by institutions that operate approved programs of professional preparation.

Notwithstanding subdivisions (b), (c), and (e) of Section 44259, Sections 44261, 44265, and 44335, or the requirements for the completion of course requirements in special education adopted pursuant to the authority of Section 67.5 of Chapter 1247 of the Statutes of 1977, it is the intent of the Legislature that upon recommendation by the governing board, district interns shall be issued clear credentials, rather than preliminary credentials, upon the completion of successful service as a teacher pursuant to subdivision (b) of Section 44325 unless the governing board recommends, and the commission finds substantial evidence that the person is not qualified to teach.

SEC. 7. Section 44329 of the Education Code is amended to read:

44329. The commission shall study the effectiveness of the certificated district intern program and shall report its findings to the Legislature on or before January 1, 1993.

SEC. 8. Section 44830.3 of the Education Code is amended to read:

44830.3. (a) The governing board of any school district that maintains kindergarten or grades 1 to 12, inclusive, or that maintains classes in bilingual education may employ persons authorized by the Commission on Teacher Credentialing to provide service as district interns to provide instruction to pupils in those grades as a classroom teacher. Prior to employing any person as a district intern, the governing board shall certify to the commission on the appropriate statement of need document provided by the commission that insufficient fully credentialed teachers are available. The governing board shall require that each district intern be assisted and guided by a certificated employee of the school district who has been designated by the governing board as a mentor teacher pursuant to the provisions of Article 4 (commencing with Section 44490) of Chapter 3 or by certificated employees selected through a competitive process adopted by the governing board after consultation with the exclusive teacher representative unit or by personnel employed by institutions of higher education to supervise student teachers.

(b) The governing board of each school district employing district interns shall develop and implement a professional development

plan for district interns in consultation with an accredited institution of higher education offering an approved program of pedagogical preparation. The professional development plan shall include all of the following:

(1) Provisions for an annual evaluation of the district intern.

(2) As the governing board determines necessary, a description of courses to be completed by the district intern, if any, and a plan for the completion of preservice or other clinical training, if any, including student teaching.

(3) Mandatory preservice training for district interns teaching in kindergarten or grades 1 to 12, inclusive, tailored to the grade level to be taught, through either of the following options:

(A) One hundred twenty clock hours of preservice training and orientation in the aspects of child development and the methods of teaching the subject field or fields in which the district intern will be assigned, which training and orientation period shall be under the direct supervision of an experienced permanent teacher. At the conclusion of the preservice training period, the permanent teacher shall provide the district with information regarding the area that should be emphasized in the future training of the district intern.

(B) The completion, prior to service by the intern in any classroom, of six semester units of college or university coursework designed in cooperation with the school district to provide instruction and orientation in the aspects of child development and the methods of teaching the subject field or fields in which the district intern will be assigned.

(4) Instruction in child development and the methods of teaching during the first semester of service for district interns teaching in kindergarten or grades 1 to 6, inclusive, including bilingual classes at those levels.

(5) Instruction in the culture and methods of teaching bilingual children during the first year of service for district interns teaching children in bilingual classes.

(6) Any other criteria which may be required by the governing board.

(c) Each district intern and each district teacher assigned to supervise the district intern during the preservice period, shall be compensated for the preservice period pursuant to subparagraph (A) or (B) of paragraph (3). The compensation shall be that which is normally provided by each district for staff development or in-service activity.

(d) Upon completion of two years of service or three years of service for those teaching in bilingual classes, the governing board may recommend to the Commission on Teacher Credentialing that the district intern be credentialed in the manner prescribed by Section 44328.

SEC. 9. Section 44885.5 of the Education Code is amended to read:

44885.5. (a) Any school district shall classify as a probationary

employee of the district any person who is employed as a district intern pursuant to Section 44830.3 and any person who has completed service in the district as a district intern pursuant to subdivision (b) of Section 44325 and Section 44830.3 and is reelected for the next succeeding school year to a position requiring certification qualifications.

The governing board may dismiss or suspend employees classified as probationary employees pursuant to this subdivision in accordance with the procedures specified in Section 44948 or 44948.3 as applicable.

(b) Every certificated employee, who has completed service as a district intern pursuant to subdivision (b) of Section 44325 and pursuant to Section 44830.3 and who is further reelected and employed during the succeeding school year as described in subdivision (a) shall, upon reelection for the next succeeding school year, to a position requiring certification qualifications, be classified as and become a permanent employee of the district.

The governing board shall notify the employee, on or before March 15 of the employee's last complete consecutive school year of probationary employment in a position requiring certification qualification as described in this subdivision, of the decision to reelect or not reelect the employee for the next succeeding school year to this type of a position. In the event the governing board does not give notice pursuant to this section on or before March 15, the employee shall be deemed reelected for the next succeeding school year.

SEC. 10. The changes made in Sections 1 to 9, inclusive, of this act to existing law shall have no retroactive application or effect upon any individual who has entered any teacher training program prior to January 1, 1988.

CHAPTER 1469

An act to amend Section 214 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 214 of the Revenue and Taxation Code is amended to read:

214. (a) Property used exclusively for religious, hospital, scientific, or charitable purposes owned and operated by community chests, funds, foundations or corporations organized and operated for religious, hospital, scientific, or charitable purposes is exempt from taxation if:

(1) The owner is not organized or operated for profit; provided, that in the case of hospitals, such organization shall not be deemed to be organized or operated for profit, if during the immediate preceding fiscal year the excess of operating revenues, exclusive of gifts, endowments and grants-in-aid, over operating expenses shall not have exceeded a sum equivalent to 10 percent of such operating expenses. As used herein, operating expenses shall include depreciation based on cost of replacement and amortization of, and interest on, indebtedness.

(2) No part of the net earnings of the owner inures to the benefit of any private shareholder or individual.

(3) The property is used for the actual operation of the exempt activity, and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose.

(4) The property is not used or operated by the owner or by any other person so as to benefit any officer, trustee, director, shareholder, member, employee, contributor, or bondholder of the owner or operator, or any other person, through the distribution of profits, payment of excessive charges or compensations or the more advantageous pursuit of their business or profession.

(5) The property is not used by the owner or members thereof for fraternal or lodge purposes, or for social club purposes except where such use is clearly incidental to a primary religious, hospital, scientific, or charitable purpose.

(6) The property is irrevocably dedicated to religious, charitable, scientific, or hospital purposes and upon the liquidation, dissolution or abandonment of the owner will not inure to the benefit of any private person except a fund, foundation or corporation organized and operated for religious, hospital, scientific, or charitable purposes.

(7) The property, if used exclusively for scientific purposes, is used by a foundation or institution which, in addition to complying with the foregoing requirements for the exemption of charitable organization in general, has been chartered by the Congress of the United States (except that this requirement shall not apply when the scientific purposes are medical research), and whose objects are the encouragement or conduct of scientific investigation, research and discovery for the benefit of the community at large.

The exemption provided for herein shall be known as the "welfare exemption." This exemption shall be in addition to any other exemption now provided by law and the existence of the exemption provision in paragraph (2) of subdivision (a) of Section 202 shall not preclude the exemption under this section for museum or library property. Except as provided in subdivision (e), this section shall not be construed to enlarge the college exemption.

(b) Property used exclusively for school purposes of less than collegiate grade and owned and operated by religious, hospital, or charitable funds, foundations, or corporations, which property and funds, foundations, or corporations meet all of the requirements of subdivision (a), shall be deemed to be within the exemption

provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section.

(c) Property used exclusively for nursery school purposes and owned and operated by religious, hospital, or charitable funds, foundations, or corporations, which property and funds, foundations, or corporations meet all the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section.

(d) Property used exclusively for a noncommercial educational FM broadcast station or an educational television station and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations meeting all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section.

(e) Property used exclusively for religious, charitable, scientific, or hospital purposes and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations or educational institutions of collegiate grade, as defined in Section 203, which property and funds, foundations, corporations, or educational institutions meet all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section. As to educational institutions of collegiate grade, as defined in Section 203, the requirements of paragraph (6) of subdivision (a) shall be deemed to be met if both of the following are met:

(1) The property of the educational institution is irrevocably dedicated in its articles of incorporation to charitable and educational purposes, to religious and educational purposes, or to educational purposes.

(2) The articles of incorporation of the educational institution provide for distribution of its property upon its liquidation, dissolution, or abandonment to a fund, foundation, or corporation organized and operated for religious, hospital, scientific, charitable, or educational purposes meeting the requirements for exemption provided by Section 203 or this section.

(f) Property used exclusively for housing and related facilities for elderly or handicapped families and financed by, including, but not limited to, the federal government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), or Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations meeting all of the requirements of this section shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section. The amendment of this paragraph made at the

1983–84 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law. However, no refund of property taxes shall be required as a result of this amendment for any fiscal year prior to the fiscal year in which the amendment takes effect.

Property used exclusively for housing and related facilities for elderly or handicapped families at which supplemental care or services designed to meet the special needs of elderly or handicapped residents are not provided, or which is not financed by the federal government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), or Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715), shall not be entitled to exemption pursuant to this subdivision unless the property is used for housing and related facilities for low- and moderate-income elderly or handicapped families. Property which would otherwise be exempt pursuant to this subdivision, except that it includes some housing and related facilities for other than low- or moderate-income elderly or handicapped families, shall be entitled to a partial exemption. The partial exemption shall be equal to that percentage of the value of the property which is equal to the percentage which the number of low- and moderate-income elderly and handicapped families occupying the property is of the total number of families occupying the property.

As used in this subdivision, "low and moderate income" has the same meaning as the term "persons and families of low or moderate income" as defined by Section 50093 of the Health and Safety Code.

(g) Property used exclusively for rental housing and related facilities and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations, including limited partnerships in which the managing general partner is an eligible nonprofit corporation, meeting all of the requirements of this section shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section and shall be entitled to a partial exemption equal to that percentage of the value of the property which the portion of the property serving lower-income households is of the total property in any year in which any of the following criteria are applicable:

(1) Twenty percent or more of the occupants of the property are lower-income households whose rent does not exceed that prescribed by Section 50053 of the Health and Safety Code.

(2) The acquisition, rehabilitation, development, or operation of the property, or any combination of these factors, is financed with tax exempt mortgage revenue bonds or general obligation bonds, or is financed by local, state, or federal loans or grants and the rents of the occupants who are lower-income households do not exceed those prescribed by deed restrictions or regulatory agreements pursuant to the terms of the financing or financial assistance.

(3) The owner of the property is eligible for and receives low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code of 1986, as added by Public Law 99-514.

In order to be eligible for the exemption provided by this subdivision, the owner of the property shall do both of the following:

(A) Certify and ensure that there is a deed restriction, agreement, or other legal document which restricts the project's usage and which provides that the units designated for use by lower income households are continuously available to or occupied by lower income households at rents that do not exceed those prescribed by Section 50053 of the Health and Safety Code, or, to the extent that the terms of federal, state, or local financing or financial assistance conflicts with Section 50053, rents do not exceed those prescribed by the terms of the financing or financial assistance.

(B) Certify that the funds which would have been necessary to pay property taxes are used to maintain the affordability of, or reduce rents otherwise necessary for, the units occupied by lower-income households.

As used in this subdivision, "lower-income households" has the same meaning as the term "lower-income households" as defined by Section 50079.5 of the Health and Safety Code.

SEC. 2. This act makes a classification or exemption of property for purposes of ad valorem taxation within the meaning of Section 2229 of the Revenue and Taxation Code.

SEC. 3. The amendments to Section 214 of the Revenue and Taxation Code made by this act shall be operative for the 1988–89 fiscal year and each fiscal year thereafter.

CHAPTER 1470

An act to add Sections 14083.5 and 14105.44 to the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 14083.5 is added to the Welfare and Institutions Code, to read:

14083.5. In addition to considering factors specified in Section 14083, the negotiator, in negotiating contracts under this article, or in drawing specifications for competitive bidding, shall give special consideration to the reimbursement issues faced by hospitals caring for Medi-Cal beneficiaries who are receiving treatment for acquired immune deficiency syndrome (AIDS).

SEC. 2. Section 14105.44 is added to the Welfare and Institutions

Code, to read:

14105.44. (a) The department shall establish an expedited review process to examine the effectiveness of investigational drugs and investigational services, and their eligibility for Medi-Cal reimbursement.

(b) The department shall adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 3 of the Government Code to implement subdivision (a). The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health or safety. Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the department in order to implement subdivision (b) shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

SEC. 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 essential medical assistance for the victims of a rapidly growing medical problem as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1471

An act to amend Section 6369.4 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 6369.4 of the Revenue and Taxation Code is amended to read:

6369.4. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale, and the storage, use, or other consumption, in this state of items and materials when used to modify a vehicle for physically handicapped persons.

(b) In the case of the sale of a modified vehicle described in subdivision (a) to a disabled person who is eligible to be issued a distinguishing license plate or placard for parking purposes pursuant to Section 22511.5 of the Vehicle Code, there are exempted from the taxes imposed by this part the gross receipts from the sale, and the storage, use, or other consumption attributable to that portion of the vehicle which has been modified for physically handicapped persons.

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, 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 1472

An act to amend and supplement the Budget Act of 1987 by adding Item 3790-104-716 to Section 2 thereof, relating to parks and recreation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Item 3790-104-716 is added to Section 2 of the Budget Act of 1987 (Chapter 135 of the Statutes of 1987), to read:

COMMUNITY PARKLANDS PROGRAM

3790-104-716—For local assistance, Department of Parks and Recreation, payable from the Community Parklands Fund		194,000
Schedule:		
(1) County of Santa Cruz grant for acquisition and development	194,000	

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:

In order that the project provided in this act may be commenced at the earliest opportunity, it is necessary that this act take effect immediately.

CHAPTER 1473

An act to amend, repeal, and add Section 3057.5 of, and to add and repeal Section 3057.6 of, the Business and Professions Code, relating to optometry.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 3057.5 of the Business and Professions Code is amended to read:

3057.5. (a) Notwithstanding any other provision of this chapter, the board shall permit a person who meets all of the following requirements to take the examination for a certificate of registration as an optometrist:

(1) Is over the age of 18 years.

(2) Is not subject to denial of a certificate under Section 480.

(3) Has a degree as a doctor of optometry issued by a university located outside of the United States.

(b) Nothing contained in this section shall be construed to prohibit the board from refusing to permit a person meeting the above requirements to take such examination if, in the opinion of the board, the course of instruction at the institution issuing him the degree of doctor of optometry was not reasonably equivalent to that required of applicants for the examination who have graduated from a college or university located in the United States.

(c) This section shall remain in effect until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends that date.

SEC. 2. Section 3057.5 is added to the Business and Professions Code, to read:

3057.5. (a) Notwithstanding any other provision of this chapter, the board shall permit a person who meets all of the following requirements to take the examination for a certificate of registration as an optometrist:

(1) Is over the age of 18 years.

(2) Is not subject to denial of a certificate under Section 480.

(3) Has a degree as a doctor of optometry issued by a university located outside of the United States.

(b) This section shall become operative on January 1, 1991.

SEC. 3. Section 3057.6 is added to the Business and Professions Code, to read:

3057.6. (a) Notwithstanding Section 3057.5, any individual who is over 18 years of age, is not subject to the denial of a license under Section 480, and who has a degree as a doctor of optometry issued by a university located outside of the United States, shall be sponsored by the State Board of Optometry for the National Board of

Examiners of Optometry examination and, upon passing that examination, shall be permitted to take the examination for a certificate of registration as an optometrist, if that individual satisfies both of the following requirements:

(1) Was a graduate of a foreign school prior to 1980.

(2) Has been previously sponsored, or was otherwise qualified to be sponsored, by the State Board of Optometry for the National Board of Examiners of Optometry examination.

(b) This section shall remain in effect until January 1, 1992, and as of that date, is repealed, unless a later enacted statute, which is chaptered before January 1, 1992, deletes or extends that date.

CHAPTER 1474

An act to add Section 43.93 to the Civil Code, relating to psychotherapy.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 43.93 is added to the Civil Code, to read:

43.93. (a) For the purposes of this section the following definitions are applicable:

(1) "Psychotherapy" means the professional treatment, assessment, or counseling of a mental or emotional illness, symptom, or condition.

(2) "Psychotherapist" means a physician and surgeon specializing in the practice of psychiatry, a psychologist, a psychological assistant, marriage, family and child counselor, a registered marriage, family and child counselor intern, an educational psychologist, an apprentice social worker, or clinical social worker.

(3) "Sexual contact" means the touching of an intimate part of another person. "Intimate part" and "touching" have the same meanings as defined in Section 243.4 of the Penal Code. For the purposes of this section, sexual contact includes sexual intercourse, sodomy, and oral copulation.

(4) "Therapeutic relationship" exists during the time the patient or client is rendered professional service by the therapist.

(5) "Therapeutic deception" means a representation by a psychotherapist that sexual contact with the psychotherapist is consistent with or part of the patient's or former patient's treatment.

(b) A cause of action against a psychotherapist for sexual contact exists for a patient or former patient for injury caused by sexual contact with the psychotherapist, if the sexual contact occurred under any of the following conditions:

(1) During the period the patient was receiving psychotherapy

from the psychotherapist.

(2) Within two years following termination of therapy.

(3) By means of therapeutic deception.

(c) The patient or former patient may recover damages from a psychotherapist who is found liable for sexual contact. It is not a defense to the action that sexual contact with a patient occurred outside a therapy or treatment session or that it occurred off the premises regularly used by the psychotherapist for therapy or treatment sessions. No cause of action shall exist between spouses within a marriage.

(d) In an action for sexual contact, evidence of the plaintiff's sexual history is not subject to discovery and is not admissible as evidence except in either of the following situations:

(1) The plaintiff claims damage to sexual functioning.

(2) The defendant requests a hearing prior to conducting discovery and makes an offer of proof of the relevancy of the history, and the court finds that the history is relevant and the probative value of the history outweighs its prejudicial effect.

The court shall allow the discovery or introduction as evidence only of specific information or examples of the plaintiff's conduct that are determined by the court to be relevant. The court's order shall detail the information or conduct that is subject to discovery.

CHAPTER 1475

An act to add Sections 14529.8, 14529.9, and 14529.10 to the Government Code, relating to transportation.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987]

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

SECTION 1. It is the intent of the Legislature to reimburse local agencies which provide funds to advance construction of projects in the state transportation improvement program.

SEC. 2. Section 14529.8 is added to the Government Code, to read:

14529.8. (a) A transportation planning agency, county transportation commission, or local transportation authority, with the concurrence of the commission and the department, may provide the funds to prevent a delay in the delivery of any project in the state transportation improvement program caused by a shortage of state and federal funds for the project.

(b) Upon giving its concurrence, the commission shall amend the state transportation improvement program to specify the year in which the local entity shall be reimbursed for the funding it provides. The reimbursement shall be for the actual cost of the project, and

shall have no lower priority for funding than did the project when it was originally scheduled in the state transportation improvement program. For purposes of Sections 188 and 188.8 of the Streets and Highways Code, the project shall be considered as an expenditure in the year it was originally scheduled in the state transportation improvement program.

(c) If any portion of the cost of a project becomes eligible for reimbursement from federal funds pursuant to Section 115 of Title 23 of the United States Code, responsibility for the cost which the department incurs in making the project eligible shall be specified by agreement between the transportation planning agency, county transportation commission, or local transportation authority and the department.

SEC. 3. Section 14529.9 is added to the Government Code, to read:

14529.9. (a) A transportation planning agency, county transportation commission, or local transportation authority may, with the concurrence of the commission, request the department to make a portion of the cost of any project funded by a local entity that is included in the state transportation improvement program eligible for reimbursement by the federal government pursuant to Section 115 of Title 23 of the United States Code. The transportation planning agency, county transportation commission, or local transportation authority shall be responsible for the cost the department incurs in making the project's cost eligible for federal reimbursement.

(b) The transportation planning agency, county transportation commission, or local transportation authority and the department shall specify by agreement whether reimbursements for project costs received from the federal government pursuant to Section 115 of Title 23 of the United States Code shall be returned to the local funding entity for transportation projects or allocated to additional projects in the state transportation improvement program. For purposes of Sections 188 and 188.8 of the Streets and Highways Code, reimbursements to local entities shall be considered expenditures from the State Highway Account in the year the reimbursement occurs.

(c) For reimbursements which a local funding entity specifies are to be allocated to additional projects in the state transportation improvement program, the transportation planning agency, county transportation commission, or local transportation authority and the department, in making their recommendations, and the commission, in adopting the state transportation improvement program, shall consider the recommendations of the local funding entity for projects to be funded from federal reimbursements received for a project the entity has funded. The reimbursements may not be used as substitute funding for projects the commission has included in the adopted state transportation improvement program and programmed to receive state and federal funds, other than those provided as reimbursement pursuant to Section 115 of Title 23 of the

United States Code.

(d) The department, in its recommended funding estimate, shall identify the amount of project costs that can be made eligible for reimbursement pursuant to Section 115 of Title 23 of the United States Code. The department shall also estimate the amount of federal funds available for reimbursement in each year of the state transportation improvement program.

(e) Each year the department shall determine the actual amount of federal funds available for reimbursement pursuant to Section 115 of Title 23 of the United States Code and shall notify the commission and regional transportation planning agencies.

(f) In any federal fiscal year in which the department determines funding is available for reimbursement pursuant to Section 115 of Title 23 of the United States Code, the department shall seek reimbursement for locally funded projects in the order in which the projects were made eligible pursuant to subdivision (a). If the funds available are not sufficient to fully reimburse a locally funded project, the department shall seek reimbursment for the next project whose amount can be fully reimbursed. Projects bypassed for reimbursement in one fiscal year shall retain their priority in the next fiscal year in which funding is available.

(g) The commission shall not make a reimbursement pursuant to this section unless the department finds that implementation of advance construction of projects results in the state receiving federal funds in addition to those which would be received in the absence of advanced construction agreements under this section. Reimbursement shall only be made when the commission determines that all county minimum expenditures pursuant to Section 188.8 of the Streets and Highways Code can be reasonably met, that the minimum expenditures cannot be met for reasons not related to advance construction reimbursements, or when the county in which a reimbursement would be made is below its minimum expenditure amount pursuant to that section. A project bypassed for reimbursement under this subdivision in one fiscal year shall retain its priority in the next fiscal year in which funding is available.

(h) The department shall notify the commission within 30 days of applying for reimbursement by the federal government for locally funded projects.

SEC. 4. Section 14529.10 is added to the Government Code, to read:

14529.10. The department shall recommend, and the commission shall adopt, guidelines and procedures to implement Sections 14529.8 and 14529.9.

CHAPTER 1476

An act to add Chapter 4.5 (commencing with Section 1188.80) to Part 4 of Division 1 of the Health and Safety Code, and to amend Item 4260-101-001 of Section 2.00 of Chapter 135 of the Statutes of 1987, relating to health, and making an appropriation therefor.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987]

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

SECTION 1. Chapter 4.5 (commencing with Section 1188.80) is added to Part 4 of Division 1 of the Health and Safety Code, to read:

CHAPTER 4.5. SMALL AND RURAL HOSPITALS

Article 1. General Provisions

1188.80. The Legislature finds and declares all of the following:

(a) Rural hospitals serve as the "hub of health," and through that role attract and retain in their communities physicians, nurses, and other primary care providers. Because of economies of scale compounded by reimbursement reforms, many rural hospitals will close before the end of this decade. This will result in the departure of primary care providers and the loss of emergency medical services both to residents and persons traveling through the area. The smallest and most remote facilities are at highest risk.

(b) The rural hospital is often one of the largest employers in the community. The closure of such a hospital means the loss of a source of employment. This has an economic impact beyond the health sector. Further, economic development of a rural area is, in part, tied to the existence of a hospital. People, for example, tend not to retire to areas where there is not reasonable access to physician and hospital-based services.

(c) Rural hospitals, especially the smaller facilities, lack access to the sophisticated expertise necessary to deal with current reimbursement regulations and the associated bureaucracy.

(d) Most rural hospitals are unable to participate in programs which provide access to short- and long-term financing due to lender requirements for credit enhancement.

(e) Because of economies of scale compounded by regulations under Title 22 of the California Administrative Code and other regulations, rural hospitals have high, fixed costs which, in the present reimbursement environment, cannot be offset by revenues generated from serving a relatively small population base. Further, in an economically depressed rural area, community contributions are not sufficient to offset deficits.

(f) Rural hospitals are an important link in the Medi-Cal program,

and without special consideration which takes into account their unique circumstances, rural hospitals will be unable to continue providing services to Medi-Cal patients. This is especially true for outpatient services which are reimbursed at less than 60 percent of costs.

(g) While only a very small percentage of the Medi-Cal budget for inpatient and outpatient services is spent for services rendered by rural hospitals, their participation is essential to preserve the integrity of the entire Medi-Cal program.

1188.81. (a) The Legislature recognizes the need to strengthen, and in some cases salvage, rural hospitals to ensure that adequate access to services is provided to residents of rural areas as well as tourists and travelers who, at certain times, may outnumber the residents. Further, the Legislature recognizes that this will require a comprehensive approach. Therefore, the Legislature intends that:

(1) Expertise be provided to endangered rural hospitals to both of the following:

(A) Carry out a strategic assessment of potential business and diversification of service opportunities.

(B) Develop a specific plan of action when feasible.

(2) Access, when appropriate, be provided to special eligibility programs within the California Health Facilities Financing Authority.

(3) Short-term technical assistance be available on fiscal and program matters.

(4) The State Department of Health Services continue to provide regulatory relief through program flexibility.

(5) Inpatient reimbursement limitations be modified so as not to single out rural hospitals for application.

(6) Reimbursement rates for outpatient services be set at a level which will provide incentives for rural hospitals to focus on the provision of outpatient services and which will reduce the financial losses incurred by the facilities in providing those services.

(b) The Legislature recognizes that for certain rural settings, an acute care hospital as defined in subdivision (a) of Section 1250 of the Health and Safety Code may no longer be cost-effective. Therefore, a rural alternative model which preserves the primary and emergency care systems must be identified and studied for feasibility. To this end, the Legislature intends that the concept of an alternative health facility be studied through a limited demonstration project.

(c) The Legislature recognizes that a rural alternative facility may not conform to what is now depicted in state or federal regulation. Therefore, to actually test a model, once identified, a cooperative effort will be required between the state department, the federal Health Care Financing Administration, and the health care industry. To this end, the Legislature intends that the department inform the federal Health Care Financing Administration of its interest in the concept and subsequently seek any necessary waivers.

1188.82. Unless the context otherwise requires, the definitions contained in this article govern the construction of this chapter.

1188.83. "Department" means the State Department of Health Services.

1188.835. "Director" means the Director of Health Services.

1188.84. "High-risk rural hospital," means a hospital as defined in subdivision (a) of Section 1188.855 which can demonstrate through audited and interim financial reports and projections that it is probable that it will need to cease operations within one year.

1188.845. "Organizations of interest" means nonprofit organizations which typically represent the interests of hospitals and health systems.

1188.855. "Small and rural hospital" means an acute care hospital which meets either of the following criteria:

(a) Meets the criteria for designation within peer group six or eight, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982.

(b) Meets the criteria for designation within peer group five or seven and has no more than 76 acute care beds and is located in an incorporated place or census designated place of 15,000 or less population according to the 1980 federal census.

1188.856. "Strategically located" means a hospital as defined in subdivision (a) of Section 1188.855 which, by virtue of its location, or the location of a major portion of the hospital's service area, can demonstrate that its existence is essential to provide health services including emergency services and stabilization to the service area and transient populations.

1188.865. The department shall provide grants or expert technical assistance to strategically located high-risk rural hospitals to assist the hospitals in carrying out an assessment of potential business and diversification of service opportunities. In providing the technical assistance on business opportunities, the department shall consult with the Department of Commerce and other appropriate agencies. The high-risk rural hospital, in cooperation with the department, may develop a short-term plan of action if, in its opinion, the results of the assessment so indicate. The department, in consultation with an organization of interest, shall do all of the following:

(a) Establish a process for identifying strategically located high-risk rural hospitals and reviewing requests from the hospitals for assessment grants or assistance.

(b) Develop a standard format for the strategic assessment.

(c) Develop a model action plan.

(d) Establish criteria for review of action plans.

(e) Request input and assistance from organizations of interest.

(f) Make the strategic assessment format and model action plan available to all small and rural hospitals.

1188.866. Any small and rural hospital may apply to the California Health Facilities Financing Authority for consideration under special

eligibility programs if the hospital has successfully completed the assessment and developed an action plan.

1188.87. The department shall, in consultation with an organization of interest, develop recommendations on the type and scope of technical assistance which needs to be available to small and rural hospitals from within the department. The recommendations of an organization of interest shall be given consideration by the department in development of subsequent budgets.

1188.875. The department, after consultation with an organization of interest, shall select at least one strategically located high-risk rural hospital to study the feasibility of a rural alternative hospital. To the extent feasible, the study shall be conducted on site, with approval of the hospital. The study shall include, but not be limited to, identification of the following:

(a) Appropriate mix and type of services to be provided locally and obtained on referral.

(b) Types and numbers of personnel required.

(c) Probability of, and the amount of, reimbursement under current regulations.

(d) Statutory and regulatory changes necessary to license the facility and maximize reimbursement.

The department shall convey to the federal Health Care Financing Administration its interest in the rural alternative hospital concept and seek any necessary appropriate waivers.

1188.876. The department shall continue to provide regulatory relief when appropriate through program flexibility for such items as staffing, space, and physical plant requirements.

SEC. 2. Item 4260-101-001 of Section 2.00 of Chapter 135 of the Statutes of 1987 is amended to read:

4260-101-001—For local assistance, Department of Health Services, Medical Assistance Program, payable from the Health Care Deposit Fund (912) after transfer from the General Fund 2,683,094,000

Schedule:

(aa) 50.10-Eligibility (County Administration) 147,907,000

(a) 50.11-Benefits (Medical Care and Services) 5,229,029,000

(ax) 50.12-Special adjustment (Contracts with Disproportionate Share Hospitals) 25,000,000

(ay) 50.50-Fiscal Intermediary Management 45,578,000

(b) Reimbursements ..... -19,420,000

(c) Amount payable from the Federal Trust Fund (Item 4260-101-890) -2,745,000,000

Provisions:

1. After June 30, 1988, a transfer to the Health Care

Deposit Fund from this item shall be permitted to meet the total General Fund obligation incurred pursuant to this item.

2. Notwithstanding any other provision of law, both the federal and nonfederal shares of any money recovered for previously paid health care services, provided pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, are hereby appropriated and shall be expended as soon as practicable for medical care and services as defined in the Welfare and Institutions Code.
3. Notwithstanding any other provision of law, accounts receivable, for recoveries as described in Provision 2 above, shall have no effect upon the positive balance of the General Fund or the Health Care Deposit Fund. Notwithstanding any other provision of law, money recovered as described in this item required to be transferred from the Health Care Deposit Fund to the General Fund shall be credited by the State Controller to the General Fund without regard to the appropriation from which it was drawn.
4. Without regard to fiscal year, the General Fund shall make a loan available not to exceed a cumulative total of $45 million to be transferred as needed to the Health Care Deposit Fund to meet cash needs. Such loans are subject to repayment provisions of Section 16351 of the Government Code. Any additional loan requirement in excess of $45 million shall be processed in the manner prescribed by Section 16351 of the Government Code.
5. Notwithstanding any other provision of law, the Director of Health Services may give public notice relative to proposing or amending any rule or regulation which could result in increased costs in the Medi-Cal program only after approval by the Department of Finance as to the availability of funds; and any rule or regulation adopted by the Director of Health Services and any communication which revises the Medi-Cal program shall only be effective from and after the date upon which it is approved as to availability of funds by the Department of Finance.
7. The reimbursement rate for any procedure or service shall not be increased to exceed the Medicare rate for a comparable procedure or

service, nor shall the reimbursement rate for any procedure or service which is currently above the Medicare rate be increased above its current level.

9. Of the funds appropriated by this item, up to $25,000 may be allocated for attorney fees pursuant to Section 10962 of the Welfare and Institutions Code without prior notification to the Legislature. Individual settlements authorized under this language are limited to no more than $5,000. The semiannual estimates of Medi-Cal expenditures due to the Legislature in January and May shall reflect attorney fees paid fifteen (15) or more days prior to the transmittal of the estimate.

14. The State Department of Finance, pursuant to a request by the State Department of Health Services, may augment the amount available for expenditure in Item 4260-001-001 for support of the San Mateo County field office by transfer from Item 4260-101-001 pending the implementation of the San Mateo County Organized Health System. Any transfer may be authorized pursuant to this section not sooner than 30 days after notification in writing is provided to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each case determine.

15. When a date for public hearing has been established for a change in any program, rule, or regulation, or the Department of Finance has approved any communication revising any department program, the two fiscal committees and the Joint Legislative Budget Committee shall be notified if the annual General Fund cost of the proposed change is $1 million or more.

19. Where regulations involve changes to the Medi-Cal Drug Formulary which could result in increased costs to the Medi-Cal program, it shall not be necessary for the Director of the State Department of Health Services to secure approval by the Department of Finance prior to the director's giving of public notice relative to the proposed or amended regulations. However, after the public hearing, the director shall

submit those regulations which propose the addition of drugs to, or the deletion of drugs from, the Medi-Cal Drug Formulary to the Department of Finance for final approval prior to the submission of those regulations to the Office of Administrative Law for review and filing with the Secretary of State.

23. None of the funds appropriated by this item shall be used for induced abortions. The exclusive means for paying for induced abortions shall be through the appropriation made in Item 4260-105-001.

24. Notwithstanding any other provision of law, the Department of Health Services shall not access fiscal sanctions against any county during 1987–88 and thereafter based solely upon a state-established error rate standard. The department shall pass on to counties any federal sanction imposed upon the state based on the following program:

(a) The department shall institute an eligibility determination of a sample of persons in each county granted Medi-Cal eligibility under Section 14005.4, 14005.7, or 14005.8 or Article 4.4 (commencing with Section 14140) of the Welfare and Institutions Code.

(b) A review period shall be defined as one year and shall coincide with the federal fiscal year. The department shall draw a random sample of cases for each period. The random sample shall be drawn to ensure a minimum number of cases reviewed in each county in each review period according to the following:

(1) All cases shall be sampled in any county with less than 50 Medi-Cal cases.

(2) 50 cases in any county with 0.01% to 0.50% of the Medi-Cal cases.

(3) 75 cases in any county with 0.51% to 1.00% of the Medi-Cal cases.

(4) 100 cases in any county with 1.01% to 3.00% of the Medi-Cal cases.

(5) 125 cases in any county with 3.01% to 10.00% of the Medi-Cal cases.

(6) 650 cases in any county with more than 10.00% of the Medi-Cal cases.

(c) When family members maintain separate residences, but eligibility is determined as

a single unit because of the provisions of Section 14008 of the Welfare and Institutions Code, the county to which the parent or parents reside shall determine the eligibility for the entire unit.

(d) In administering the provisions of law and regulations related to eligibility determination, the director shall impose such fiscal penalties as provided by this section to assure adequate county administrative performance.

(e) The director shall hold counties financially liable for payments made on behalf of ineligible persons or persons with an incorrect share of costs.

When a sampled case is found to include an ineligible person or a person with an incorrect share of cost, written notification will be sent to the county department which describes the error and requests a written response within two weeks. The county must indicate whether it agrees or disagrees with the findings. If the county disagrees, the department shall reevaluate the error findings, taking into consideration any additional facts contained in the county's response. The county shall again be notified of the department's findings. If the county continues to disagree with the error findings, the county may appeal to the Chief, Audits and Investigations Division, requesting that the department review the case and render a final decision. The director may reduce or waive the fiscal liability of a county if the department is unable to meet the minimum sample requirements as earlier defined or if an individual county experienced a natural disaster, job actions, or other occurrences which impacted the findings in an individual county as determined by the director.

(f) The department shall utilize the methodology detailed in this subdivision to establish counties' fiscal penalties. The department shall determine each county's case error rate for each review period by dividing the number of cases reviewed in that county found in error by the number of cases reviewed in that county. State-

caused errors shall not be included in this calculation. Case error rates shall be arrayed, from highest to lowest. From this array, the department shall determine the percentage of counties liable as follows:

(1) The 60% of counties with the highest case error rates shall be liable if the state's dollar error rate exceeds the federal standard by 0.01% to 1.00%.

(2) The 70% of counties with the highest case error rates shall be liable if the state's dollar error rate exceeds the federal standard by 1.01% to 2.00%.

(3) The 80% of the counties with the highest case error rates shall be liable if the state's dollar error rate exceeds the federal standard by 2.01% to 3.00%.

(4) The 90% of counties with the highest case error rates shall be liable if the state's dollar error rate exceeds the federal standard by 3.01% to 4.00%.

(5) All counties shall be liable if the state's dollar error rate exceeds the federal standard by 4.01% or more.

As used herein, the state's dollar error rate means the Medicaid dollar error rate reported to the department by the Department of Health and Human Services less any portion of this error rate attributable to state caused errors. The term federal standard means the Medicaid dollar error rate standard to which the accountable.

For each county determined liable, the department shall calculate a penalty multiple which shall be the product of a liable county's case error rate multiplied by the liable county's percentage of statewide Medi-Cal cases. Each county's fiscal penalty shall be the product of a county's penalty multiple divided by the sum of all penalty multiples, multiplied times the penalty bank. The penalty bank includes all federal fiscal sanctions, federal withholds, federal disallowances, and any associated General Fund expenditures, minus the value of any state caused errors.

If after the department has assessed fiscal penalties to counties the federal govern-

ment reduces or eliminates any federal fiscal sanction, federal withhold, or federal disallowances, the department shall reduce or eliminate the corresponding fiscal penalty assessment including any associated General Fund expenditures to liable counties.

(g) When a county welfare department contravenes state eligibility processing regulations and written instructions in a way that produces increased program benefits or administrative expenses but does not result in an increase in the federal eligibility dollar error rate, the director shall recoup from that county the additional administrative or program benefit costs above those which would have been incurred had that county not contravened the established state eligibility processing regulation and written instructions. This provision shall not be construed to interfere with the rights of counties to outstation eligibility staff.

(h) Notwithstanding the number of counties determined liable for fiscal penalties under this section, Individual County Corrective Action Plans as prescribed by the department shall be required from all counties which exceed a 15% case error rate.

(i) Any penalties imposed under this system shall be collected through direct repayment from liable counties rather than through any reduction in funds otherwise due to counties.

The Director of Health Services shall adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code to implement this program. The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, or safety. Notwithstanding any provision of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the Department of Health Services to implement this program shall not be subject to any review,

approval, or disapproval by the Office of Administrative Law at any stage of the rulemaking process. These regulations shall become effective immediately upon filing with the Secretary of State.

25. Notwithstanding Section 14154.1 of the Welfare and Institutions Code, which requires that the Department of Health Services shall not allocate funds for nonapproved Medi-Cal applications which exceed a specified level, the level for applications accepted on or after July 1, 1986, shall be determined by multiplying the county's number of approved applications by the ratio of nonapproved applications to approved applications processed by the county during the 1983–84 fiscal year.
26. The State Departmment of Health Services shall test a variety of followup thresholds under the Income and Eligibility Verification System (IEVS) program in order to determine the amount of followup that is needed to ensure that the program generates savings in excess of its operating costs. The department shall also take appropriate action to ensure that counties use automated followup to the maximum possible extent. The department shall report to the Legislature by December 15, 1987, on its estimate of the savings that will be generated by IEVS.
27. Change orders to the medical or the dental fiscal intermediary contract for amounts exceeding a total cost of $250,000 shall be approved by the Director of Finance not sooner than 30 days after written notification of the change order is provided to the chairpersons of the fiscal and policy committees in each house and to the Chairperson of the Joint Legislative Budget Committee or not sooner than such lesser time as the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may designate. If there are changes or potential changes in federal funding, the Department of Finance shall provide timely written notification of the changes to the chairperson of the fiscal committee in each house and the Chairperson of the Joint Legislative Budget Committee.
28. When a date for public hearing has been established for a change in any program rule, or regu-

lation, or the Department of Finance has approved any communication revising any department program, the two fiscal committees and the Joint Legislative Budget Committee shall be notified if the annual General Fund cost of the proposed change is $1,000,000 or more.

29. Recoveries of advances made to counties in prior years pursuant to Section 14153 of the Welfare and Institutions Code are hereby reappropriated to the Health Care Deposit Fund for reimbursement to those counties where allowable costs exceed the the amounts advanced. Recoveries in excess of the amounts required to fully reimburse allowable costs shall be transferred to the General Fund. When a projected deficiency exists in the Medical Assistance Program, these funds, subject to notification to the Chairperson of the Joint Legislative Committee, are hereby appropriated and shall be expended as soon as practicable for the state's share of payments for medical care and services, county administration, and fiscal intermediary services.

30. (a) The $25,000,000 appropriation provided in Schedule (ax), Program 50.12, Special Adjustment- (Contracts with Disproportionate Share Hospitals), shall be to fund rate increases negotiated after June 30, 1987, by the California Medical Assistance Commission for hospitals serving a disproportionate share of Medi-Cal patients. The commission shall allocate $2,000,000, $1,000,000 from the General Fund and $1,000,000 from federal funds, for rural, distressed safety-net providers and county-operated hospitals with less than 100 acute care beds which serve a preponderance of persons residing in rural areas.

(b) Amounts shall be allocated from Schedule (ax) to Schedule (a) of this item in the appropriate fiscal years to cover the annualized cost for each rate increase provided from these funds, by executive order of the Department of Finance, based on the estimate of annualized cost and fiscal year costs made by the commission. Any rate increases resulting from these funds shall be in addition to any other rate increases which hospitals would have received.

(c) Disproportionate share hospitals are hospitals which serve a disproportionate number of Medi-Cal beneficiaries as referenced in subdivision (k) of Section 14083 of the Welfare and Institutions Code and as determined by the California Medical Assistance Commission.

(d) The aggregate cost of these rate increases shall not exceed an annualized cost of $25,000,000. Furthermore, notwithstanding Section 2.00 of this act, the funds provided in this schedule shall be available for expenditure for the 1987–88, 1988–89, and 1989–90 fiscal years. Funds in this schedule shall be appropriated in Items 4260-101-001 and 4260-101-890.

31. Amounts identified as abatements to the county medical services program for retroactive aid to the Totally Dependent Program claims shall be transferred from the Health Care Deposit Fund to the county medical services program without regard to fiscal year.

SEC. 3. (a) Notwithstanding any other provision of law, for the 1987–88 fiscal year the State Department of Health Services shall provide rate adjustments for Medi-Cal outpatient services rendered by small and rural hospitals, as defined in Section 1188.855 of the Health and Safety Code. The rate adjustments shall not exceed an aggregate total of four million dollars ($4,000,000) in state and federal funds. The sum which is necessary to carry out the purposes of this section is hereby reappropriated to the department from Item 4260-101-001 of Section 2.00 of Chapter 135 of the Statutes of 1987.

(b) The rate adjustments authorized by subdivision (a) shall be allocated to eligible hospitals as follows:

(1) Except as otherwise provided in paragraphs (2) and (3), an eligible hospital's basic share of the rate adjustment shall be computed as the hospital's ratio of Medi-Cal expenditures for claims paid to eligible hospitals for hospital outpatient services during the 1986 calendar year, as determined by the department.

(2) However, if a hospital's share of the rate increase as calculated in paragraph (1) is less than twenty thousand dollars ($20,000) and if total gross annual patient revenue during 1986 was less than two million five hundred thousand dollars ($2,500,000) then the hospital's minimum floor share shall be calculated as 125 percent of the amount calculated in paragraph (1), not to exceed twenty thousand dollars ($20,000).

(3) The final share for each hospital not receiving the minimum floor share under paragraph (2) shall then be recomputed as in paragraph (1), except the ratio shall be computed using the Medi-

Cal expenditures for the remaining eligible hospitals. The total aggregate rate adjustment for hospitals not qualifying for minimum floor shares under paragraph (2) shall be that amount remaining after subtracting the minimum floor shares computed under paragraph (2) from four million dollars ($4,000,000).

(4) For the purposes of determining a hospital's share of the rate adjustment, if any eligible hospital had less than a full year of operation during 1986, the department shall extrapolate the Medi-Cal paid claims expenditures for that hospital to estimate a full year's Medi-Cal claims expenditures.

(c) The allocation of these rate adjustments under this section shall not be subject to administrative or judicial review.

(d) Payment under this section shall be contingent upon submission of claims for Medi-Cal outpatient services rendered after the effective date of this section.

(e) Payments under this section shall be made in three equal installments and shall be made on or about February 15, 1988, April 15, 1988, and June 15, 1988.

(f) Any rule, regulation, order, or standard of general application adopted or enforced by the State Department of Health Services, in order to implement the provisions of this section, shall be exempt from the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(g) The department shall maximize federal financial participation in implementing this section.

(h) Hospitals receiving rate adjustments pursuant to this section shall be liable to the state for any disallowances of federal financial participation on the ground that implementation of this act is inconsistent, in whole or in part, with federal law governing eligibility for federal financial participation.

CHAPTER 1477

An act to amend Section 22430 of the Business and Professions Code, to amend Sections 10502, 10520, 10521, 10523, 10676, and 10690 of, to repeal Sections 10522 and 10679 of, the Health and Safety Code, and to amend Sections 529a and 803 of the Penal Code, relating to documents.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 22430 of the Business and Professions Code is amended to read:

22430. (a) No deceptive identification document shall be manufactured, sold, or offered for sale unless there is diagonally

across the face of the document, in not less than 14-point type and printed conspicuously on the document in permanent ink, the following statement:

NOT A GOVERNMENT DOCUMENT

and, also printed conspicuously on the document, the name of the manufacturer.

(b) As used in this section, "deceptive identification document" means any document not issued by a governmental agency of this state, another state, or the federal government, which purports to be, or which might deceive an ordinary reasonable person into believing that it is, a document issued by such an agency, including, but not limited to, a driver's license, identification card, birth certificate, passport, or social security card.

(c) Any person who violates or proposes to violate this section may be enjoined by any court of competent jurisdiction. Actions for injunction under this section may be prosecuted by the Attorney General or any district attorney in this state in the name of the people of the State of California upon their own complaint or upon the complaint of any person.

(d) Any person who violates the provisions of subdivision (a) who knows or reasonably should know that the deceptive identification document will be used for fraudulent purposes is guilty of a crime, and upon conviction therefor, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison.

SEC. 2. Section 10502 of the Health and Safety Code is amended to read:

10502. An application may be filed with the State Registrar for the delayed registration of birth of any person born in this state whose birth is not registered. The application may be made only by the person whose birth is being registered if he or she is 18 years of age or over at the time of filing the application. If the person whose birth is being registered is under 18 years of age at the time of filing the application, the application may be made only by his or her mother, father, legal guardian, or the attending physician or principal attendant at birth.

SEC. 3. Section 10520 of the Health and Safety Code is amended to read:

10520. "Affidavit," as used in this chapter, is defined as a written statement executed under oath by a person who at the time of birth was at least 5 years old and had knowledge of the facts of birth and shall include the full name of the person whose birth is being registered, the names of his or her parents, the date and place of his or her birth and the basis of the affiant's knowledge of these facts.

SEC. 4. Section 10521 of the Health and Safety Code is amended to read:

10521. "Documentary evidence," as used in this chapter, is

defined as original or certified copies of a record which was executed at least five years prior to the date of application, and which substantiates the date and place of birth of the person whose birth is being registered; except that if the person whose birth is being registered is under 12 years of age the record shall have been executed only at least two years before the date of application. Examples of documentary evidence which shall generally be considered acceptable are hospital records of birth, baptismal certificates or other church records, school records, census records, social security records, military service records, voting registration records, birth certificate of child of person whose birth is being registered, certificates of registry of marriage, and newspaper notices of birth.

SEC. 5. Section 10522 of the Health and Safety Code is repealed.

SEC. 6. Section 10523 of the Health and Safety Code is amended to read:

10523. For births which are being registered under this chapter there shall be required documentary evidence and affidavits as follows:

(a) Two pieces of documentary evidence, at least one of which shall support the parentage, or

(b) One piece of documentary evidence and one affidavit executed by the physician or other principal attendant, or

(c) One piece of documentary evidence and two affidavits executed by either the mother, father, or other persons having knowledge of the facts of birth.

SEC. 7. Section 10676 of the Health and Safety Code is amended to read:

10676. Every person who willfully alters or knowingly possesses more than one altered document, other than as permitted by this division, or falsifies any certificate of birth, fetal death, death, or registry of marriage, or any record established by this division is guilty of a misdemeanor.

SEC. 8. Section 10679 of the Health and Safety Code is repealed.

SEC. 9. Section 10690 of the Health and Safety Code is amended to read:

10690. Any person who willfully makes or files or causes to be made or filed a false certificate or affidavit under Chapter 9 is guilty of a felony. The subject is also liable to the State of California for a civil penalty in the amount of five thousand dollars ($5,000). The civil penalty may be recovered in an action filed by the Attorney General in any court of competent jurisdiction. A penalty so recovered shall be paid into the State Treasury to the credit of the General Fund.

SEC. 10. Section 529a of the Penal Code is amended to read:

529a. Every person who manufactures, produces, sells, offers, or transfers to another any document purporting to be either a certificate of birth or certificate of baptism, knowing such document to be false or counterfeit and with the intent to deceive, is guilty of a crime, and upon conviction therefor, shall be punished by

imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison. Every person who offers, displays, or has in his or her possession any false or counterfeit certificate of birth or certificate of baptism, or any genuine certificate of birth which describes a person then living or deceased, with intent to represent himself or herself as another or to conceal his or her true identity, is guilty of a crime, and upon conviction therefor, shall be punished by imprisonment in the county jail not to exceed one year.

SEC. 11. Section 803 of the Penal Code, as amended by Section 2 of Chapter 246 of the Statutes of 1987, is amended to read:

803. (a) Except as provided in this section, a limitation of time prescribed in this chapter is not tolled or extended for any reason.

(b) No time during which prosecution of the same person for the same conduct is pending in a court of this state is a part of a limitation of time prescribed in this chapter.

(c) A limitation of time prescribed in this chapter does not commence to run until discovery of an offense described in this subdivision. This subdivision applies to an offense punishable by imprisonment in the state prison, a material element of which is fraud or breach of a fiduciary obligation or the basis of which is misconduct in office by a public officer, employee, or appointee, including, but not limited to, the following offenses:

(1) Grand theft of any type, forgery, falsification of public records, or acceptance of a bribe by a public official or a public employee.

(2) A violation of Section 72, 118, 118a, 132, or 134.

(3) A violation of Section 25540, of any type, or 25541 of the Corporations Code.

(4) A violation of Section 1090 or 27443 of the Government Code.

(5) Felony welfare fraud or Medi-Cal fraud in violation of Section 11483 or 14107 of the Welfare and Institutions Code.

(6) A violation of Section 22430 of the Business and Professions Code.

(7) A violation of Section 10690 of the Health and Safety Code.

(8) A violation of Section 529a.

(d) If the defendant is out of the state when or after the offense is committed, the prosecution may be commenced as provided in Section 804 within the limitations of time prescribed by this chapter, and no time up to a maximum of three years during which the defendant is not within the state shall be a part of those limitations.

(e) A limitation of time prescribed in this chapter does not commence to run until the offense has been discovered, or could have reasonably been discovered, with regard to offenses under Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.5 (commencing with Section 25100) of Division 20 or Part 4 (commencing with Section 41500) of Division 26 of the Health and Safety Code, or Section 386.

SEC. 11.5. Section 803 of the Penal Code, as amended by Section 2 of Chapter 246 of the Statutes of 1987, is amended to read:

803. (a) Except as provided in this section, a limitation of time

prescribed in this chapter is not tolled or extended for any reason.

(b) No time during which prosecution of the same person for the same conduct is pending in a court of this state is a part of a limitation of time prescribed in this chapter.

(c) A limitation of time prescribed in this chapter does not commence to run until discovery of an offense described in this subdivision. This subdivision applies to an offense punishable by imprisonment in the state prison, a material element of which is fraud or breach of a fiduciary obligation or the basis of which is misconduct in office by a public officer, employee, or appointee, including, but not limited to, the following offenses:

(1) Grand theft of any type, forgery, falsification of public records, or acceptance of a bribe by a public official or a public employee.

(2) A violation of Section 72, 118, 118a, 132, or 134.

(3) A violation of Section 25540, of any type, or 25541 of the Corporations Code.

(4) A violation of Section 1090 or 27443 of the Government Code.

(5) Felony welfare fraud or Medi-Cal fraud in violation of Section 11483 or 14107 of the Welfare and Institutions Code.

(6) A violation of Section 580, 581, 582, 583, or 584 of the Business and Professions Code.

(7) A violation of Section 22430 of the Business and Professions Code.

(8) A violation of Section 10690 of the Health and Safety Code.

(9) A violation of Section 529a.

(d) If the defendant is out of the state when or after the offense is committed, the prosecution may be commenced as provided in Section 804 within the limitations of time prescribed by this chapter, and no time up to a maximum of three years during which the defendant is not within the state shall be a part of those limitations.

(e) A limitation of time prescribed in this chapter does not commence to run until the offense has been discovered, or could have reasonably been discovered, with regard to offenses under Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.5 (commencing with Section 25100) of Division 20 or Part 4 (commencing with Section 41500) of Division 26 of the Health and Safety Code, or Section 386.

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.

SEC. 13. Section 11.5 of this bill incorporates amendments to Section 803 of the Penal Code proposed by both this bill and AB 1956. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1988, (2) each bill amends Section 803 of the Penal Code, and (3) this bill is enacted after AB 1956, in which case Section 803 of the Penal Code, as amended by AB

1956, shall remain operative only until the operative date of this bill, at which time Section 11.5 of this bill shall become operative, and Section 11 of this bill shall not become operative.

CHAPTER 1478

An act to add Section 6254.6 to the Government Code, relating to public records.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 6254.6 is added to the Government Code, to read:

6254.6. Whenever a city and county or a joint powers agency, pursuant to a mandatory statute or charter provision to collect private industry wage data for salary setting purposes, or a contract entered to implement that mandate, is provided this data by the federal Bureau of Labor Statistics on the basis that the identity of private industry employers shall remain confidential, the identity of the employers shall not be open to the public or be admitted as evidence in any action or special proceeding.

CHAPTER 1479

An act to add Section 15335.22 to the Government Code, relating to the film industry, and making an appropriation therefor.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

I am deleting the $150,000 appropriation contained in Section 4 of Assembly Bill No. 7.

This bill would establish the Rosenthal-Farr Motion Picture Marketing Act of 1987, to increase marketing efforts by local communities to the motion picture industry.

The demands placed on budget resources require all of us to set priorities. The budget enacted in July, 1987 appropriated nearly $41 billion in state funds. This amount is more than adequate to provide the necessary essential services provided for by State Government. It is not necessary to put additional pressure on taxpayer funds for programs that fall beyond the priorities currently provided.

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties

I would, however, consider funding the provisions of this bill during the budget process for Fiscal Year 1988-89. It is appropriate to review the relative merits of this program in comparison to all other funding projects. The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit.

With this deletion, I approve Assembly Bill No 7

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) The State of California has innumerable ideal locations for the production of motion pictures.

(2) The production of motion pictures within the state is a valuable source of jobs and revenues.

(3) The potential benefits of the film industry to the state are not currently maximized.

(4) State resources should be provided to improve the promotion and marketing of California locations to the movie industry, and to assist local governments in coordinating with the industry.

(b) It is the intent of the Legislature to enact the Cooperative Motion Picture Marketing Plan for the purpose of promoting and marketing the State of California, especially lesser known and underutilized rural areas, for motion picture production and its related activities. The goal of the plan is to optimize the entertainment industry's contribution to the state's economy and to expand employment opportunities. The creation of the plan is consistent with other state policies to encourge activities that benefit California, such as programs promoting tourism and small business opportunities.

The Legislature further intends that the California Film Commission shall expand the location resource library to include an extensive catalog of photographs and information from local governments which participate in the Cooperative Motion Picture Marketing Plan.

Furthermore, it is the intent of the Legislature that participation in this plan shall be limited to local governments that have adopted reasonable use permit guidelines and fee structures as related to motion picture production.

SEC. 2. Section 15335.22 is added to the Government Code, to read:

15335.22. (a) (1) The California Film Commission shall develop and implement a Cooperative Motion Picture Marketing Plan. The plan shall increase the marketing efforts of the commission, and offer state resources to local film commissions and local government liaisons to the film industry for the purpose of marketing their locales to the motion picture industry.

(2) In addition to paragraph (1), the resources offered under the plan for marketing shall be used to recruit local government participation in, and development of, local film commissions.

(3) For purposes of this section, resources offered to local film commissions and local government liaisons to the motion picture industry shall include all of the following:

(A) Grants for partial or full funding of the cost to develop or participate in workshops, trade shows, seminars, or meetings that assist local governments to promote and market the use of their

locales by the motion picture industry. Eligible meetings shall also include those called or approved by the director to further the purposes of the Cooperative Motion Picture Marketing Plan.

(B) The services of a professional photographer, including material and expenses, to take still photographs of motion picture locations for inclusion in the location resource library established pursuant to Section 15335.21. Whenever possible, the photographer shall be hired from the local area participating in the Cooperative Motion Picture Marketing Plan.

(C) Appropriate promotional and informational materials for the purpose of mailing or distributing to the motion picture industry. The materials shall include, but not be limited to, brochures, print ads, and direct marketing materials which state the benefits and advantages of producing motion pictures within the state or the locales participating in the Cooperative Motion Picture Marketing Plan.

(b) Any resource requested under the provisions of the Cooperative Motion Picture Marketing Plan not specified in this section shall be subject to the approval of the California Film Commission.

(c) The California Film Commission, pursuant to subdivision (c) of Section 15335.21, shall expand and upgrade the location resource library through the use of a librarian, a computerized catalog system, and a professional photographer.

(d) As a condition of eligibility for the use of resources pursuant to this section, a local government shall demonstrate substantial compliance with all of the following criteria:

(1) It has adopted by resolution of its governing body or permitting authority, a streamlined permit process for the obtaining of necessary permits for filmmaking within the affected jurisdiction.

(2) It has adopted by resolution of its governing body a fee schedule for motion picture permits which is reasonably related to the cost of providing services occasioned by motion picture production, including administrative, police, fire, sanitation, and other necessary services.

(3) It has designated by resolution a film commissioner or film liaison whose responsibility shall include, but not be limited to:

(A) The attraction of motion picture production to the jurisdiction.

(B) Assistance in expediting to the greatest extent possible the issuance of all use permits necessary for motion picture production.

(e) The commission shall adopt additional guidelines as needed for the implementation of the plan, including, but not limited to, guidelines for a streamlined permit process and local government fee schedules for the permits.

(f) The purpose of the Cooperative Motion Picture Marketing Plan is in no way to discourage, limit, or impede the participation of local governments in the Film Liaisons in California, Statewide, commonly referred to as F.L.I.C.S.

(g) As used in this section, "motion picture" shall include, but not be limited to, production in film, video, television, commercial, and still photography.

SEC. 3. This act shall be cited as the Rosenthal-Farr Motion Picture Marketing Act of 1987.

SEC. 4. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the General Fund to the Department of Commerce for allocation to the California Film Commission for expenditure during the 1987–88 fiscal year for the purposes of this act.

CHAPTER 1480

An act to amend Section 58551 of, and to amend, repeal, and add Section 58040 of, the Food and Agricultural Code, relating to agricultural exports, and making an appropriation therefor.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987]

I am deleting the $200,000 appropriation contained in Section 4 of Senate Bill No. 1269.

This bill authorizes the Department of Food and Agriculture Director to utilize state foreign trade offices or contract with persons in a foreign country to provide marketing services to promote the sale of California's agricultural projects in that country and appropriates $200,000 for implementation

The demands placed on budget resources require all of us to set priorities. The budget enacted in July, 1987 appropriated nearly $41 billion in state funds. This amount is more than adequate to provide the necessary essential services provided for by State Government. It is not necessary to put additional pressure on taxpayer funds for programs that fall beyond the priorities currently provided.

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties.

I would, however, consider funding the provisions of this bill during the budget process for Fiscal Year 1988–89 It is appropriate to review the relative merits of this program in comparison to all other funding projects. The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit

With this deletion, I approve Senate Bill No 1269

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 58040 of the Food and Agricultural Code is amended to read:

58040. (a) The director may improve, broaden, and extend in every practicable way, the distribution and sale of any product of this state throughout the markets of the world.

(b) The director may exercise his or her authority pursuant to subdivision (a) by the use of department offices in this state, state foreign trade offices, or by contracting with persons in a foreign country to provide marketing services to promote the sale of this state's agricultural products in that country.

(c) The department shall submit a report to the Senate Committee on Rules, the Speaker of the Assembly, and the Assembly Committee on International Trade and Intergovernmental Relations, which will detail the specific activities undertaken to promote California food and agricultural products in foreign markets pursuant to subdivision (b). The report shall specify the kinds of activities that the department participated in, locations of these activities, participants, the results of these promotional activities, and any other information which would indicate the effectiveness of trade shows and other promotional activities in increasing foreign markets for California food and agricultural products. The report shall also indicate how the department coordinates its foreign market promotional activities with the California State World Trade Commission. The report shall be submitted on or before February 1, 1989.

(d) Subdivisions (b) and (c) of this section shall remain operative only until June 30, 1989. This section is repealed on January 1, 1990, unless a later enacted statute, enacted before January 1, 1990, deletes or extends the dates on which it is repealed.

SEC. 2. Section 58040 is added to the Food and Agricultural Code, to read:

58040. The director may improve, broaden, and extend in every practicable way, the distribution and sale of any product of this state throughout the markets of the world.

This section shall become operative January 1, 1990.

SEC. 3. Section 58551 of the Food and Agricultural Code is amended to read:

58551. This act shall be known and may be cited as the N. Waters-Nielsen-Vuich-Berryhill Foreign Market Development Export Incentive Program for California Agriculture Act.

SEC. 4. (a) The sum of two hundred thousand dollars ($200,000) is hereby appropriated, without regard to fiscal year, from the General Fund to the Department of Food and Agriculture for purposes of Section 58040 of the Food and Agricultural Code.

(b) It is the intent of the Legislature that additional funding for the purposes of Section 58040 of the Food and Agricultural Code be provided through an appropriation in the annual Budget Act and that the appropriation shall be coordinated with appropriations for overseas promotional activities conducted by the California State World Trade Commission.

CHAPTER 1481

An act to amend Section 24357.8 of, and to add Section 23701u to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 23701u is added to the Revenue and Taxation Code, to read:

23701u. An organization is operated exclusively for exempt purposes listed in Section 23701f and its net earnings are devoted exclusively to charitable purposes if that organization is a nonprofit public benefit corporation organized under Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, and if the specific and primary purpose for which the corporation is formed is to render financial assistance to government by financing, refinancing, acquiring, constructing, improving, leasing, selling, or otherwise conveying property of any kind to government. This financing ability shall be limited to the issuance of certificates of participation, or similar security arrangements.

For purposes of this section, "government" means the State of California, a city, city and county, county, school district, board of education, public corporation, hospital district, and any other special district.

An organization is not organized exclusively for the exempt purposes referred to in the first paragraph unless its assets are irrevocably dedicated to one or more purposes listed in Section 23701f.

Dedication of assets requires that in the event of dissolution of an organization or the impossibility of performing the specific organizational purposes, including default of lease payments, the assets would continue to be devoted to exempt purposes. Assets shall be deemed irrevocably dedicated to exempt purposes if the articles of organization provide that upon dissolution the assets will be distributed to an organization which is exempt under this section, Section 23701d, or Section 23701f, or under Section 501(c)(3) or Section 501(c)(4) of the Internal Revenue Code or to the federal government, or to a state or local government for public purposes; or by a provision in the articles of organization, satisfactory to the Franchise Tax Board, that the property will be distributed in trust for exempt purposes; or by establishing that the assets are irrevocably dedicated to exempt purposes by operation of law. Any organization that has had its exemption revoked by the Franchise Tax Board for failure to comply with Section 23701f may request a further review of its status under this section.

SEC. 2. 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, 1990.

(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:

(A) The President of the University of California, in the case of contributions to institutions within the University of California system.

(B) 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 of 1954).

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 1482

An act to add Section 1222.5 to, and to repeal and add Section 1222 of, the Business and Professions Code, relating to clinical laboratories.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 1222 of the Business and Professions Code is repealed.

SEC. 2. Section 1222 is added to the Business and Professions Code, to read:

1222. The department may approve schools which are accredited as medical technologist education programs by the Committee on Allied Health Education and Accreditation of the American Medical Association.

SEC. 3. Section 1222.5 is added to the Business and Professions Code, to read:

1222.5. The department may approve schools seeking to provide instruction in clinical laboratory technic which in the judgment of the department will provide instruction adequate to prepare individuals to meet the requirements for licensure or performance of duties under this chapter and regulations of the department. The department shall establish by regulation the ratio of licensed clinical laboratory technologists to licensed trainees on the staff of the

laboratory approved as a school and the minimum requirements for training in any specialty or in the entire field of clinical laboratory technology. Application for approval shall be made on forms provided by the department.

CHAPTER 1483

An act to amend Section 25143.6 of, and to add and repeal Section 25143.8 of, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 25143.6 of the Health and Safety Code is amended to read:

25143.6. On or before February 15, 1988, 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 shredder waste in accordance with State Water Resources Control Board Resolution No. 87-22: San Francisco Bay Region, Central Valley Region, Los Angeles Region, Santa Ana Region, and San Diego Region.

SEC. 2. Section 25143.8 is added to the Health and Safety Code, to read:

25143.8. (a) The department shall not prohibit any person from disposing of shredder waste in an appropriate class III landfill designated by a California regional water quality control board pursuant to Section 25143.6, if the requirements of subdivision (b) are met and the producer of the waste complies with all of the following requirements:

(1) The producer carries out an ongoing shredder waste testing program which includes all of the following:

(A) Once during each hour the facility is in operation, the facility operator shall take a grab sample of the waste from the process line. The facility operator shall collect samples of sufficient size so that a five-gallon container is filled at the end of eight hours of operation.

(B) At the end of every 16 hours of operation, the facility operator shall thoroughly mix all samples collected to that point to form a composite sample from which a single 16-ounce representative sample shall be collected for analysis.

(C) The facility operator shall submit samples to a hazardous waste testing laboratory certified pursuant to Article 8.5 (commencing with Section 25198) for analysis each week.

(D) Each sample shall be analyzed for both total and soluble

concentrations of chromium, cadmium, copper, lead, mercury, nickel, and zinc, and for total concentrations of polychlorinated biphenyls.

(E) The facility operator shall forward copies of all laboratory analytical results each month to the appropriate regional office of the department, the Alternative Technology Section of the department, and the appropriate California regional water quality control board.

(F) The department may reduce the frequency of the testing required by this paragraph, as it deems appropriate.

(2) Shredder waste which has been stored, but not disposed of, as of January 1, 1988, shall be representatively sampled on or before February 15, 1988, in accordance with the sampling methodology and sample handling procedures specified in Volume II of "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," SW-846, 3rd edition, Environmental Protection Agency, 1986. Each sample shall be analyzed for both total and soluble concentrations of chromium, cadmium, copper, lead, mercury, nickel, and zinc, and for total concentrations of polychlorinated biphenyls.

(3) The producer maintains records documenting the use of a registered hauler and a weigh bill, bill of lading, or similar papers indicating the name of the generator, the date and amount shipped, the date and amount received, and the location where the waste is disposed of.

(b) The department shall not prohibit the disposal of shredder waste pursuant to subdivision (a) if the department determines that the waste will not pose a threat to human health or water quality and the waste is not stored, but is disposed of within 45 days after production or determination of its hazardous constituents. In making this determination, the department shall use 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, and shall determine that the waste conforms with the allowable levels of specified contaminants, as verified by results obtained from the shredder waste monitoring program described in paragraph (1) of subdivision (a).

(c) Shredder waste disposed of pursuant to this section shall be disposed of in accordance with State Water Resources Control Board Resolution No. 87-22, ensuring its location in either a separate cell or in the highest lift, unless this procedure is waived by the State Water Resources Control Board or the appropriate California regional water quality control board.

(d) This section does not apply to any shredder waste which contains total concentrations of polychlorinated biphenyls in excess of 50 parts per million.

(e) Shredder waste disposed of pursuant to this section is exempt from any hazardous waste fee or tax imposed pursuant to this chapter or Chapter 6.8 (commencing with Section 25300).

(f) For purposes of this section, "shredder waste" means waste

which results from the shredding of automobile bodies, household appliances, and sheet metal.

(g) 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. 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 1484

An act to amend the heading of Chapter 4.5 (commencing with Section 56450) of Part 30 of, to amend Sections 56452, 56454, and 56456 of, to add a heading to Article 1 (commencing with Section 56452) of, and to add Article 2 (commencing with Section 56460), and Article 3 (commencing with Section 56470) to, Chapter 4.5 of Part 30 of, and to repeal Sections 56450 and 56451 of, the Education Code, relating to education.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. The heading of Chapter 4.5 (commencing with Section 56450) of Part 30 of the Education Code is amended to read:

CHAPTER 4.5. CAREER AND VOCATIONAL EDUCATION PROGRAMS, TRANSITION SERVICES, AND PROJECT WORKABILITY

SEC. 2. Section 56450 of the Education Code is repealed.

SEC. 3. Section 56451 of the Education Code is repealed.

SEC. 4. A heading for Article 1 (commencing with Section 56452) is added to Chapter 4.5 of Part 30 of the Education Code, to read:

Article 1. Career and Vocational Education Programs

SEC. 5. Section 56452 of the Education Code is amended to read:

56452. The superintendent shall ensure that the state annually secures all federal funds available for career and vocational education of individuals with exceptional needs.

SEC. 6. Section 56454 of the Education Code is amended to read:

56454. In order to provide districts, special education local plan areas, and county offices with maximum flexibility to secure and utilize all federal funds available to enable those entities to meet the

career and vocational needs of individuals with exceptional needs more effectively and efficiently, and to provide maximum federal funding to those agencies for the provision of that education, the superintendent shall do all the following:

(a) Provide necessary technical assistance to districts, special education local plan areas, and county offices.

(b) Establish procedures for these entities to obtain available federal funds.

(c) Apply for necessary waivers of federal statutes and regulations including, but not limited to, those governing federal career and vocational education programs.

SEC. 7. Section 56456 of the Education Code is amended to read:

56456. It is the intent of the Legislature that districts, special education local plan areas, and county offices may use any state or local special education funds for approved vocational programs, services, and activities to satisfy the excess cost matching requirements for receipt of federal vocational education funds for individuals with exceptional needs.

SEC. 8. Article 2 (commencing with Section 56460) is added to Chapter 4.5 of Part 30 of the Education Code, to read:

Article 2. Transition Services

56460. The Legislature finds and declares all of the following:

(a) That while the passage of the Education for All Handicapped Children Act of 1975 (Public Law 94-142) and the California Master Plan for Special Education have resulted in improved educational services for individuals with exceptional needs; this has not translated into paid employment opportunities or maximum integration into our heterogeneous communities for individuals with exceptional needs.

(b) That there is no formalized process that bridges the gap between the security and structure of school and the complexity of service options and resources available for individuals with exceptional needs in the adult community.

(c) That there is insufficient coordination between educators, adult service providers, potential employers, and families and students in order to effectively plan and implement a successful transition for students to the adult world of paid employment and social independence.

(d) That because of insufficient vocational training throughout the middle and secondary school years, and effective interagency coordination and involvement of potential employers in a planning process, the majority of options available for individuals with exceptional needs in the adult community are programs that support dependence rather than independence.

(e) The goal of transition services is planned movement from secondary education to adult life that provides opportunities which maximize economic and social independence in the least restrictive

environment for individuals with exceptional needs. Planning for transition from school to postsecondary environments should begin in the school system well before the student leaves the system.

56461. The superintendent shall establish the capacity to provide transition services for a broad range of individuals with exceptional needs such as employment and academic training, strategic planning, interagency coordination, and parent training.

56462. The transition services shall include, but not be limited to, the following:

(a) In-service training programs, resource materials, and handbooks that identify the following:

(1) The definition of "transition," including the major components of an effective school-based transition program.

(2) Relevant laws and regulations.

(3) The roles of other agencies in the transition process including, but not limited to, the scope of their services, eligibility criteria, and funding.

(4) The components of effective transition planning.

(5) The role of families in the individualized transition process.

(6) Resources and model programs currently available in California.

(b) Development of the role and responsibilities of special education in the transition process, including the following:

(1) The provision of work skills training, including those skills that are necessary in order to exhibit competence on the job.

(2) The provision of multiple employment options and facilitating job or career choice by providing a variety of vocational experiences.

(3) The collection and analysis of data on what happens to students once they leave the school system and enter the adult world.

(4) The coordination of the transition planning process, including development of necessary interagency agreements and procedures at both state and local levels.

(5) The provision of instructional learning strategies that will assist students who find learning difficult in acquiring skills that will enable them to obtain diplomas, promote a positive attitude toward secondary and postsecondary education and training, and make a successful transition to postsecondary life.

(c) The development and implementation of systematic and longitudinal vocational education curriculum including the following:

(1) Instructional strategies that will prepare students with severe disabilities to make a successful transition to supported employment and the community.

(2) The introduction of vocational and career education curriculum in the elementary grades for those students who can benefit from it.

(d) Materials, resource manuals, and in-service training programs to support the active participation of families in the planning and implementation of transition-related goals and activities.

(e) The development of resources and in-service training that will support the implementation of individualized transition planning for all students with exceptional needs.

(f) The development of a network of model demonstration sites that illustrate a wide variety of transition models and implementation strategies.

(g) Coordination with other specialized programs that serve students who face barriers to successful transition.

(h) A research, evaluation, and dissemination program that will support the major programmatic aspects of transition services. Through a variety of competitive grants, bids, contracts, and other awards specific content areas will be developed in cooperation with a variety of field-based agencies, including local education agencies, special education local plan areas, county offices, institutions of higher education, and in-service training agencies.

(i) The superintendent shall annually report to the education and fiscal policy committees of the Legislature on the implementation and effectiveness of transition services.

56463. Transition services shall be funded pursuant to the Budget Act.

SEC. 9. Article 3 (commencing with Section 56470) is added to Chapter 4.5 of Part 30 of the Education Code, to read:

Article 3. Project Workability

56470. The Legislature finds and declares all of the following:

(a) That an essential component of transition services developed and supported by the State Department of Education is project workability.

(b) That the workability program provides instruction and experiences that reinforce core curriculum concepts and skills leading to gainful employment.

(c) That since project workability was established by the State Department of Education in 1981, substantial numbers of individuals with exceptional needs have obtained full- or part-time employment.

(d) That project workability is a true partnership established at the state level through nonfinancial interagency agreements between the State Department of Education, the Department of Employment Development, and the Department of Rehabilitation, and has elevated awareness in the private sector of the employment potential of individuals with exceptional needs, and focuses its efforts in developing careers for these youth, and preventing needless economic and social dependency on state and community agencies and resources.

(e) That local education agencies in California establish linkage between agencies, eliminate duplication of effort, and develop precedent-setting employment training practices which should be preserved and advanced to better assure future productive employable citizens.

56471. (a) The program shall be administered by the State Department of Education.

(b) The department shall establish an advisory committee. This committee will include representatives from local workability projects to ensure ongoing communications.

(c) The superintendent shall develop criteria for awarding grants, funding, and evaluating of workability projects.

(d) Workability project applications shall include, but are not limited to, the following elements:

(1) recruitment, (2) assessment, (3) counseling, (4) preemployment skills training, (5) vocational training, (6) student stipends for try-out employment, (7) placement in unsubsidized employment, (8) other assistance with transition to a quality adult life, and (9) utilization of an interdisciplinary advisory committee to enhance project goals.

56472. The population served by workability projects may include secondary students with disabilities, adults with disabilities and other individuals who experience barriers to successful completion of school.

56473. Project workability shall be funded pursuant to Item 6100-161-001 and Item 6100-161-890 of the Budget Act.

56474. The superintendent shall continue to seek additional state and federal funding for project workability.

CHAPTER 1485

An act to amend Section 232 of the Civil Code, and to amend Sections 206, 280, 308, 309, 319, 328, 332, 335, 336, 340, 345, 350, 353, 355, 355.1, 361, 361.5, 364, 366.1, 366.2, 366.25, and 390 of, to amend and renumber Section 301 of, to amend, repeal, and add Sections 300.1 and 358 of, to add Sections 301, 304, 342, 366.21, 366.22, 366.23, and 366.26 to, to repeal and add Sections 300, 305, 306, 315, 316, 317, 318, and 366.3 of, and to repeal Sections 304.5 355.2, 355.3, 355.4, 355.5, 355.6, and 355.7 of, the Welfare and Institutions Code, relating to minors.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 232 of the Civil Code is amended to read:

232. (a) An action may be brought for the purpose of having any child under the age of 18 years declared free from the custody and control of either or both of his or her parents when the child comes within any of the following descriptions:

(1) The child has been left without provision for the child's identification by his or her parent or parents or by others or has been

left by both of his or her parents or his or her sole parent in the care and custody of another for a period of six months or by one parent in the care and custody of the other parent for a period of one year without any provision for the child's support, or without communication from the parent or parents, with the intent on the part of the parent or parents to abandon the child. The failure to provide identification, failure to provide support, or failure to communicate shall be presumptive evidence of the intent to abandon. If the parent or parents have made only token efforts to support or communicate with the child, the court may declare the child abandoned by the parent or parents. In those cases in which the child has been left without provision for the child's identification and the whereabouts of the parents are unknown, a petition may be filed after the 120th day following the discovery of the child and citation by publication may be commenced. The petition may not be heard until after the 180th day following the discovery of the child.

(2) Who has been neglected or cruelly treated by either or both parents, if the child has been a dependent child of the juvenile court under any subdivision of Section 300 of the Welfare and Institutions Code and the parent or parents have been deprived of the child's custody for one year prior to the filing of a petition pursuant to this section. Physical custody by the parent or parents for insubstantial periods of time shall not serve to interrupt the running of the one-year period.

(3) Whose parent or parents suffer a disability because of the habitual use of alcohol, or any of the controlled substances specified in Schedules I to V, inclusive, of Division 10 (commencing with Section 11000) of the Health and Safety Code, except when these controlled substances are used as part of a medically prescribed plan, or are morally depraved, if the child has been a dependent child of the juvenile court, and the parent or parents have been deprived of the child's custody continuously for one year immediately prior to the filing of a petition pursuant to this section. As used in this subdivision, "disability" means any physical or mental incapacity which renders the parent or parents unable to adequately care for and control the child. Physical custody by the parent or parents for insubstantial periods of time shall not interrupt the running of the one-year period.

(4) Whose parent or parents are convicted of a felony, if the facts of the crime of which the parent or parents were convicted are of a nature so as to prove the unfitness of the parent or parents to have the future custody and control of the child.

(5) Whose parent or parents have been declared by a court of competent jurisdiction, wherever situated, to be developmentally disabled or mentally ill, if, in the state or country in which the parent or parents reside or are hospitalized, the Director of Mental Health or the Director of Developmental Services, or their equivalent, if any, and the superintendent of the hospital of which, if any, the parent or parents are inmates or patients, certify that the parent or

parents so declared to be developmentally disabled or mentally ill will not be capable of supporting or controlling the child in a proper manner.

(6) Whose parent or parents are mentally disabled and are likely to remain so in the foreseeable future. As used in this subdivision, "mentally disabled" means that a parent or parents suffer any mental incapacity or disorder which renders the parent or parents unable to adequately care for and control the child. The evidence of any two experts, each of whom shall be either a physician and surgeon, certified either by the American Board of Psychiatry and Neurology or under Section 6750 of the Welfare and Institutions Code, or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders, shall be required to support a finding under this subdivision. If, however, the parent or parents reside in another state or in a foreign country, the evidence required by this subdivision may be supplied by the affidavits of two experts, each of whom shall be either a physician and surgeon who is a resident of that state or foreign country, and who has been certified by a medical organization or society of that state or foreign country to practice psychiatric or neurological medicine, or by a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders and who is licensed in that state or authorized to practice in that country. If the rights of any parent are sought to be terminated pursuant to this subdivision, and the parent has no attorney, the court shall appoint an attorney for the parent pursuant to Section 237.5, whether or not a request for the appointment is made by the parent.

(7) Who has been in out-of-home placement under the supervision of the juvenile court, the county welfare department, or other public or private licensed child-placing agency for a one-year period, if the court finds that return of the child to the child's parent or parents would be detrimental to the child and that the parent or parents have failed during that period, and are likely to fail in the future, to maintain an adequate parental relationship with the child, which includes providing both a home and care and control for the child.

If the minor has been adjudged a dependent child of the juvenile court and placed in out-of-home placement pursuant to Section 361 of the Welfare and Institutions Code, the one-year period shall be calculated from the date of the dispositional hearing at which the child was placed in out-of-home placement pursuant to that section. If the minor is in placement under the supervision of a county welfare department or other public or private licensed child-placing agency, pursuant to a voluntary placement, as described in Section 16507.4 of the Welfare and Institutions Code, the one-year period shall be calculated from the date the minor entered out-of-home placement.

The court shall make a determination that reasonable services have been provided or offered to the parents which were designed to aid the parents to overcome the problems which led to the deprivation or continued loss of custody and that despite the availability of these services, return of the child to the parents would be detrimental to the child. The probation officer or social worker currently assigned to the case of the child shall appear at the termination proceedings.

If the minor has been adjudged to be a dependent child of the court pursuant to Section 300 of the Welfare and Institutions Code, the court shall review and consider the contents of the juvenile court file in determining if the services offered were reasonable under the circumstances.

Trial placement of the child in the physical custody of the parent or visitation of the child with the parent during the one-year period, when the trial placement or visitation does not result in permanent placement of the child with the parent, shall not serve to interrupt the running of the one-year period.

(8) A minor who has been found to be a dependent child of the juvenile court and the juvenile court has determined, pursuant to paragraph (3), (4), or (5) of subdivision (b) of Section 361.5 of the Welfare and Institutions Code, that reunification services shall not be provided to the minor's parent or guardian.

(b) At all termination proceedings, the court shall consider the wishes of the child and shall act in the best interests of the child.

The testimony of the minor may be taken in chambers and outside the presence of the minor's parent or parents if the minor's parent or parents are represented by counsel, the counsel is present, and any of the following circumstances exist:

(1) The court determines that testimony in chambers is necessary to ensure truthful testimony.

(2) The minor is likely to be intimidated by a formal courtroom setting.

(3) The minor is afraid to testify in front of his or her parent or parents.

After testimony in chambers, the parent or parents of the minor may elect to have the court reporter read back the testimony or have the testimony summarized by counsel for the parent or parents.

The testimony of a minor also may be taken in chambers and outside the presence of the guardian or guardians of a minor under the circumstances specified in this subdivision.

(c) A finding pursuant to this section shall be supported by clear and convincing evidence.

(d) Section 5158 shall not apply to proceedings pursuant to this section.

(e) This section does not apply to minors adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360 on and after January 1, 1989, during the period in which the minor is a dependent child of the court. For those minors, Section

366.26 of this code and Section 7017 of the Civil Code provide the exclusive means for the termination of parental rights.

SEC. 1.5. Section 206 of the Welfare and Institutions Code is amended to read:

206. Persons taken into custody and persons alleged to be within the description of Section 300, or persons adjudged to be such and made dependent children of the court pursuant to this chapter solely upon that ground, shall be provided by the board of supervisors with separate facilities segregated from persons either alleged or adjudged to come within the description of Section 601 or 602 except as provided in Section 16514. Separate segregated facilities may be provided in the juvenile hall or elsewhere.

The facilities required by this section shall, with regard to minors alleged or adjudged to come within Section 300, be nonsecure.

For the purposes of this section, the term "secure facility" means a facility which is designed and operated so as to insure that all entrances to, and exits from, the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences, or physical restraints in order to control behavior of its residents. The term "nonsecure facility" means a facility that is not characterized by the use of physically restricting construction, hardware, and procedures and which provides its residents access to the surrounding community with minimal supervision. A facility shall not be deemed secure due solely to any of the following conditions: (1) the existence within the facility of a small room for the protection of individual residents from themselves or others; (2) the adoption of regulations establishing reasonable hours for residents to come and go from the facility based upon a sensible and fair balance between allowing residents free access to the community and providing the staff with sufficient authority to maintain order, limit unreasonable actions by residents, and to insure that minors placed in their care do not come and go at all hours of the day and night or absent themselves at will for days at a time; and (3) staff control over ingress and egress no greater than that exercised by a prudent parent. The State Department of Social Services may adopt regulations governing the use of small rooms pursuant to this section.

No minor described in this section may be held in temporary custody in any building that contains a jail or lockup for the confinement of adults, unless, while in the building, the minor is under continuous supervision and is not permitted to come into or remain in contact with adults in custody in the building.

No record of the detention of such a person shall be made or kept by any law enforcement agency or the Department of Justice as a record of arrest.

SEC. 2. Section 280 of the Welfare and Institutions Code is amended to read:

280. Except where waived by the probation officer, judge, or

referee and the minor, the probation officer shall be present in court to represent the interests of each person who is the subject of a petition to declare that person to be a ward or dependent child upon all hearings or rehearings of his or her case, and shall furnish to the court such information and assistance as the court may require. If so ordered, the probation officer shall take charge of that person before and after any hearing or rehearing.

It shall be the duty of the probation officer to prepare for every hearing on the disposition of a case as provided by Section 356, 358, 358.1, 361.5, 364, 366, 366.2, or 366.21 as is appropriate for the specific hearing, or, for a hearing as provided by Section 702, a social study of the minor, containing such matters as may be relevant to a proper disposition of the case. The social study shall include a recommendation for the disposition of the case.

SEC. 3. Section 300 of the Welfare and Institutions Code is repealed.

SEC. 4. Section 300 is added to the Welfare and Institutions Code, to read:

300. Any minor 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) The minor has suffered, or there is a substantial risk that the minor will suffer, serious physical harm inflicted nonaccidentally upon the minor by the minor's parent or guardian. For the purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the minor or the minor's siblings, or a combination of these and other actions by the parent or guardian which indicate the child is at risk of serious physical harm. For purposes of this subdivision, "serious physical harm" does not include reasonable and age appropriate spanking to the buttocks where there is no evidence of serious physical injury.

(b) The minor has suffered, or there is a substantial risk that the minor will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the minor, or the willful or negligent failure of the minor's parent or guardian to adequately supervise or protect the minor from the conduct of the custodian with whom the minor has been left, or by the willful or negligent failure of the parent or guardian to provide the minor with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the minor due to the parent's or guardian's mental illness, developmental disability, or substance abuse. No minor shall be found to be a person described by this subdivision solely due to the lack of an emergency shelter for the family. Whenever it is alleged that a minor comes within the jursidiction of the court on the basis of the parent's or guardian's willful failure to provide adequate medical treatment or specific

decision to provide spiritual treatment through prayer, the court shall give deference to the parent's or guardian's medical treatment, nontreatment, or spiritual treatment through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, by an accredited practitioner thereof, and shall not assume jurisdiction unless necessary to protect the minor from suffering serious physical harm or illness. In making its determination, the court shall consider (1) the nature of the treatment proposed by the parent or guardian (2) the risks to the minor posed by the course of treatment or nontreatment proposed by the parent or guardian (3) the risk, if any, of the course of treatment being proposed by the petitioning agency, and (4) the likely success of the courses of treatment or nontreatment proposed by the parent or guardian and agency. The minor shall continue to be a dependent child pursuant to this subdivision only so long as is necessary to protect the minor from risk of suffering serious physical harm or illness.

(c) The minor is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian or who has no parent or guardian capable of providing appropriate care. No minor shall be found to be a person described by this subdivision if the willful failure of the parent or guardian to provide adequate mental health treatment is based on a sincerely held religious belief and if a less intrusive judicial intervention is available.

(d) The minor has been sexually abused, or there is a substantial risk that the minor will be sexually abused, as defined in subdivision (b) of Section 11165 of the Penal Code, by his or her parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the minor from sexual abuse when the parent or guardian knew or reasonably should have known that the minor was in danger of sexual abuse.

(e) The minor is under the age of five and has suffered severe physical abuse by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that the person was physically abusing the minor. For the purposes of this subdivision, "severe physical abuse" means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, 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 more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness. A minor may not be removed from the physical custody of his or her parent or guardian on the basis of a finding of severe physical abuse unless the probation officer has made an

allegation of severe physical abuse pursuant to Section 332.

(f) The minor's parent or guardian has been convicted of causing the death of another child through abuse or neglect.

(g) The minor has been left without any provision for support; or the minor's parent has been incarcerated or institutionalized and cannot arrange for the care of the minor; or a relative or other adult custodian with whom the child resides or has been left is unwilling or unable to provide care or support for the child, the whereabouts of the parent is unknown, and reasonable efforts to locate the parent have been unsuccessful.

(h) The minor has been freed for adoption from one or both parents for 12 months by either relinquishment or termination of parental rights and an interlocutory decree has not been granted pursuant to Section 224n of the Civil Code or an adoption petition has not been granted.

(i) The minor has been subjected to an act or acts of cruelty by the parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the minor from an act or acts of cruelty when the parent or guardian knew or reasonably should have known that the minor was in danger of being subjected to an act or acts of cruelty.

(j) The minor's sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the minor will be abused or neglected, as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the minor.

It is the intent of the Legislature in enacting this section to provide maximum protection for children who are currently being physically, sexually, or emotionally abused, being neglected, or being exploited, and to protect children who are at risk of that harm. This protection includes provision of a full array of social and health services to help the child and family and to prevent reabuse of children. That protection shall focus on the preservation of the family whenever possible. Nothing in this section is intended to disrupt the family unnecessarily or to intrude inappropriately into family life, to prohibit the use of reasonable methods of parental discipline, or to prescribe a particular method of parenting. Further, nothing in this section is intended to limit the offering of voluntary services to those families in need of assistance but who do not come within the descriptions of this section. To the extent that savings accrue to the state from child welfare services funding obtained as a result of the enactment of the act that enacted this section, those savings shall be used to promote services which support family maintenance and family reunification plans, such as client transportation, out-of-home respite care, parenting training, and the

provision of temporary or emergency in-home caretakers and persons teaching and demonstrating homemaking skills. The Legislature further 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 this section shall center upon whether a parent's disability prevents him or her from exercising care and control.

As used in this section "guardian" means the legal guardian of the child.

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. 4.5. Section 300 is added to the Welfare and Institutions Code, to read:

300. Any minor 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) The minor has suffered, or there is a substantial risk that the minor will suffer, serious physical harm inflicted nonaccidentally upon the minor by the minor's parent or guardian. For the purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the minor or the minor's siblings, or a combination of these and other actions by the parent or guardian which indicate the child is at risk of serious physical harm. For purposes of this subdivision, "serious physical harm" does not include reasonable and age appropriate spanking to the buttocks where there is no evidence of serious physical injury.

(b) The minor has suffered, or there is a substantial risk that the minor will suffer, serious physical harm or illness, as a result of the failure of his or her parent or guardian to adequately supervise or protect the minor, or the willful or negligent failure of the minor's parent or guardian to adequately supervise or protect the minor from the conduct of the custodian with whom the minor has been left, or by the willful or negligent failure of the parent or guardian to provide the minor with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the minor due to the parent's or guardian's mental illness, developmental disability, or substance abuse. No minor shall be found to be a person described by this subdivision solely due to the lack of an emergency shelter for the family. Whenever it is alleged that a minor comes within the jursidiction of the court on the basis of the parent's or guardian's willful failure to provide adequate medical treatment or specific decision to provide spiritual treatment through prayer, the court shall give deference to the parent's or guardian's medical treatment, nontreatment, or spiritual treatment through prayer alone in accordance with the tenets and practices of a recognized church or religious

denomination by an accredited practitioner thereof and shall not assume jurisdiction unless necessary to protect the minor from suffering serious physical harm or illness. In making its determination, the court shall consider (1) the nature of the treatment or nontreatment proposed by the parent or guardian (2) the risks to the minor posed by the course of treatment or nontreatment proposed by the parent or guardian (3) the risk, if any, of the course of treatment being proposed by the petitioning agency, and (4) the likely success of the courses of treatment or nontreatment proposed by the parent or guardian and agency. The minor shall continue to be a dependent child pursuant to this subdivision only so long as is necessary to protect the minor from risk of suffering serious physical harm or illness.

(c) The minor is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, or withdrawal, untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian. No minor shall be found to be a person described by this subdivision if the willful failure of the parent or guardian to provide adequate mental health treatment is based on a sincerely held religious belief and if a less intrusive judicial intervention is available.

(d) The minor has been sexually abused, or there is a substantial risk that the minor will be sexually abused, as defined in subdivision (b) of Section 11165 of the Penal Code, by his or her parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the minor from sexual abuse when the parent or guardian knew or reasonably should have known that the minor was in danger of sexual abuse.

(e) The minor is under the age of five and has suffered severe physical abuse by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that the person was physically abusing the minor. For the purposes of this subdivision, "severe physical abuse" means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, 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 more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness. A minor may not be removed from the physical custody of his or her parent or guardian on the basis of a finding of severe physical abuse unless the probation officer has made an allegation of severe physical abuse pursuant to Section 332.

(f) The minor's parent or guardian has been convicted of causing the death of another child through abuse or neglect.

(g) The minor has been left without any provision for support; or the minor's parent has been incarcerated or institutionalized and cannot arrange for the care of the minor; or a relative or other adult

custodian with whom the child resides or has been left is unwilling or unable to provide care or support for the child, the whereabouts of the parent is unknown, and reasonable efforts to locate the parent have been unsuccessful.

(h) The minor has been freed for adoption from one or both parents for 12 months by either relinquishment or termination of parental rights and an interlocutory decree has not been granted pursuant to Section 224n of the Civil Code or an adoption petition has not been granted.

(i) The minor has been subjected to an act or acts of cruelty by the parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the minor from an act or acts of cruelty when the parent or guardian knew or reasonably should have known that the minor was in danger of being subjected to an act or acts of cruelty.

(j) The minor's sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the minor will be abused or neglected, as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the minor.

It is the intent of the Legislature in enacting this section to provide maximum protection for children who are currently being physically, sexually, or emotionally abused, being neglected, or being exploited, and to protect children who are at risk of that harm. This protection includes provision of a full array of social and health services to help the child and family and to prevent reabuse of children. That protection shall focus on the preservation of the family whenever possible. Nothing in this section is intended to disrupt the family unnecessarily or to intrude inappropriately into family life, to prohibit the use of reasonable methods of parental discipline, or to prescribe a particular method of parenting. Further, nothing in this section is intended to limit the offering of voluntary services to those families in need of assistance but who do not come within the descriptions of this section. To the extent that savings accrue to the state from child welfare services funding obtained as a result of the enactment of the act that enacted this section, those savings shall be used to promote services which support family maintenance and family reunification plans such as client transportation, out-of-home respite care, parenting training, and the provision of temporary or emergency in-home caretakers and persons teaching and demonstrating homemaking skills. The Legislature further 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 this section shall center upon whether a parent's disability prevents

him or her from exercising care and control.

As used in this section, "guardian" means the legal guardian of the child.

SEC. 5. Section 300.1 of the Welfare and Institutions Code is amended to read:

300.1. (a) Notwithstanding subdivision (e) of Section 361 and Section 16507, family reunification services shall not be provided to a minor adjudged a dependent pursuant to subdivision (f) of Section 300.

(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. 6. Section 300.1 is added to the Welfare and Institutions Code, to read:

300.1. Notwithstanding subdivision (e) of Section 361 and Section 16507, family reunification services shall not be provided to a minor adjudged a dependent pursuant to subdivision (h) of Section 300.

SEC. 7. Section 301 of the Welfare and Institutions Code is amended and renumbered to read:

303. The court may retain jurisdiction over any person who is found to be a dependent child of the juvenile court until the ward or dependent child attains the age of 21 years.

SEC. 7.5. Section 301 is added to the Welfare and Institutions Code, to read:

301. (a) A juvenile court may assume jurisdiction over a child described in Section 300 regardless of whether the child was in the physical custody of both parents or was in the sole legal or physical custody of only one parent at the time that the events or conditions occurred that brought the child within the jurisdiction of the court.

(b) Unless their parental rights have been terminated, both parents shall be notified of all proceedings involving the child. In any case where the probation officer is required to provide a parent or guardian with notice of a proceeding at which the probation officer intends to present a report, the probation officer shall also provide both parents, whether custodial or noncustodial, or any guardian, or the counsel for the parent or guardian a copy of the report prior to the hearing, either personally or by first-class mail. The probation officer shall not charge any fee for providing a copy of a report required by this subdivision.

(c) When a minor is adjudged a dependent of the juvenile court, any issues regarding custodial rights between his or her parents shall be determined solely by the juvenile court, as specified in Sections 304, 361.2, and 362.4, so long as the minor remains a dependent of the juvenile court.

SEC. 8. Section 304 is added to the Welfare and Institutions Code, to read:

304. When a minor has been adjudged a dependent child of the juvenile court pursuant to subdivision (c) of Section 360, no other division of the superior court may hear proceedings pursuant to

Section 4600 of the Civil Code regarding the custody of the minor. While the minor is a dependent child of the court all issues regarding his or her custody shall be heard by the juvenile court. In deciding issues between the parents or between a parent and a guardian regarding custody of a minor who has been adjudicated a dependent of the juvenile court, the juvenile court may review any records that would be available to the domestic relations division of a superior court hearing such a matter. This section shall not be construed to divest the domestic relations division of a superior court from hearing any issues regarding the custody of a minor when that minor is no longer a dependent of the juvenile court.

SEC. 9. Section 304.5 of the Welfare and Institutions Code is repealed.

SEC. 10. Section 305 of the Welfare and Institutions Code is repealed.

SEC. 11. Section 305 is added to the Welfare and Institutions Code, to read:

305. Any peace officer may, without a warrant, take into temporary custody a minor:

(a) When the officer has reasonable cause for believing that the minor is a person described in Section 300, and, in addition, that the minor has an immediate need for medical care, or the minor is in immediate danger of continued physical or sexual abuse, or the physical environment poses an immediate threat to the child's health or safety.

(b) Who is in a hospital and release of the minor to a parent poses an immediate danger to the child's health or safety.

(c) Who is a dependent child of the juvenile court, or concerning whom an order has been made under Section 319, when the officer has reasonable cause for believing that the minor has violated an order of the juvenile court or has left any placement ordered by the juvenile court.

(d) Who is found in any street or public place suffering from any sickness or injury which requires care, medical treatment, hospitalization, or other remedial care.

SEC. 12. Section 306 of the Welfare and Institutions Code is repealed.

SEC. 13. Section 306 is added to the Welfare and Institutions Code, to read:

306. Any social worker in a county welfare department, while acting within the scope of his or her regular duties under the direction of the juvenile court and pursuant to Section 272, may do all of the following:

(a) Receive and maintain, pending investigation, temporary custody of a minor who is described in Section 300, and who has been delivered by a peace officer.

(b) Take into and maintain temporary custody of, without a warrant, a minor who has been declared a dependent child of the juvenile court under Section 300 or who the social worker has

reasonable cause to believe is a person described in subdivision (b) or (g) of Section 300, and the social worker has reasonable cause to believe that the minor has an immediate need for medical care or is in immediate danger of continued physical or sexual abuse or the physical environment poses an immediate threat to the child's health or safety.

Before taking a minor into custody a social worker shall consider whether there are any reasonable services available to the worker which, if provided to the minor's parent, guardian, caretaker, or to the minor, would eliminate the need to remove the minor from the custody of his or her parent, guardian, or caretaker. In addition, the social worker shall also consider whether a referral to public assistance pursuant to Chapter 2 (commencing with Section 11200) of Part 3, Chapter 7 (commencing with Section 14000) of Part 3, Chapter 1 (commencing with Section 17000) of Part 5, and Chapter 10 (commencing with Section 18900) of Part 6, of Division 9 would eliminate the need to take temporary custody of the minor. If those services are available they shall be utilized.

SEC. 14. Section 308 of the Welfare and Institutions Code is amended to read:

308. (a) When a peace officer or social worker takes a minor into custody pursuant to this article, he or she shall take immediate steps to notify the minor's parent, guardian, or a responsible relative that the minor is in custody and the place where he or she is being held, except that, upon order of the juvenile court, the parent or guardian shall not be notified of the exact whereabouts of the minor. The court shall issue such an order only upon a showing that notifying the parent or guardian of the exact whereabouts would endanger the child or that the parent or guardian is likely to flee with the child. However, if it is impossible or impracticable to obtain a court order authorizing nondisclosure prior to the detention hearing, and if the peace officer or social worker has a reasonable belief that the minor would be endangered by the disclosure of his or her exact whereabouts, or that the disclosure would cause the custody of the minor to be disturbed, the peace officer or social worker may refuse to disclose the place where the minor is being held. The county welfare department shall make a diligent effort to ensure regular telephone contact between the parent and the child, prior to the detention hearing, unless that contact would be detrimental to the child. The court shall review any such decision not to disclose the place where the minor is being held at the detention hearing, and shall conduct that review within 24 hours upon the application of a parent, guardian, or a responsible relative.

(b) Immediately after being taken to a place of confinement pursuant to this article and, except where physically impossible, no later than one hour after he or she has been taken into custody, a minor 10 years of age or older shall be advised that he or she has the right to make at least two telephone calls from the place where he or she is being held, one call completed to his or her parent, guardian,

or a responsible relative, and another call completed to an attorney. The calls shall be at public expense, if the calls are completed to telephone numbers within the local calling area, and in the presence of a public officer or employee. Any public officer or employee who willfully deprives a minor taken into custody of his or her right to make these telephone calls is guilty of a misdemeanor.

SEC. 15. Section 309 of the Welfare and Institutions Code is amended to read:

309. (a) Upon delivery to the probation officer of a minor who has been taken into temporary custody under this article, the probation officer shall immediately investigate the circumstances of the minor and the facts surrounding the minor's being taken into custody and attempt to maintain the minor with the minor's family through the provision of services. The probation officer shall immediately release the minor to the custody of the minor's parent, guardian, or responsible relative unless one or more of the following conditions exist:

(1) The minor has no parent, guardian, or responsible relative; or the minor's parent, guardian, or responsible relative is not willing to provide care for the minor.

(2) Continued detention of the minor is a matter of immediate and urgent necessity for the protection of the minor and there are no reasonable means by which the minor can be protected in his or her home or the home of a responsible relative.

(3) The minor or his or her parent, guardian, or responsible relative is likely to flee the jurisdiction of the court.

(4) The minor has violated an order of the juvenile court.

(b) In any case in which there is reasonable cause for believing that a minor who is under the care of a physician or surgeon or a hospital, clinic, or other medical facility and cannot be immediately moved is a person described in Section 300, the minor shall be deemed to have been taken into temporary custody and delivered to the probation officer for the purposes of this chapter while the minor is at the office of the physician or surgeon or the medical facility.

(c) If the minor is not released to his or her parent or guardian, the minor shall be deemed detained for purposes of this chapter.

SEC. 16. Section 315 of the Welfare and Institutions Code is repealed.

SEC. 17. Section 315 is added to the Welfare and Institutions Code, to read:

315. If a minor has been taken into custody under this article and not released to a parent or guardian, the juvenile court shall hold a hearing (which shall be referred to as a "detention hearing") to determine whether the minor shall be further detained. This hearing shall be held as soon as possible, but in any event before the expiration of the next judicial day after a petition to declare the minor a dependent child has been filed. If the hearing is not held within the period prescribed by this section, the minor shall be

released from custody.

SEC. 18. Section 316 of the Welfare and Institutions Code is repealed.

SEC. 19. Section 316 is added to the Welfare and Institutions Code, to read:

316. Upon his or her appearance before the court at the detention hearing, each parent or guardian and the minor, if present, shall first be informed of the reasons why the minor was taken into custody, the nature of the juvenile court proceedings, and the right of each parent or guardian and any minor to be represented at every stage of the proceedings by counsel.

SEC. 20. Section 317 of the Welfare and Institutions Code is repealed.

SEC. 21. Section 317 is added to the Welfare and Institutions Code, to read:

317. (a) When it appears to the court that a parent or guardian of the minor desires counsel but is unable to afford and cannot for that reason employ counsel, the court may appoint counsel.

(b) When it appears to the court that a parent or guardian of the minor is unable to afford and cannot for that reason employ counsel, and the minor has been placed in out-of-home care, or the petitioning agency is recommending that the minor be placed in out-of-home care, the court shall appoint counsel, unless the court finds that the parent or guardian has made a knowing and intelligent waiver of counsel.

(c) In any case in which it appears to the court that the minor would benefit from the appointment of counsel the court shall appoint counsel for the minor. Counsel for the minor may be a county counsel, district attorney, public defender, or other member of the bar, provided that the counsel does not represent another party or county agency whose interests conflict with the minor's. The fact that the district attorney represents the minor in a proceeding pursuant to Section 300 as well as conducts a criminal investigation or files a criminal complaint or information arising from the same or reasonably related set of facts as the proceeding pursuant to Section 300 is not in and of itself a conflict of interest. The court shall determine if representation of both the petitioning agency and the minor constitutes a conflict of interest. If the court finds there is a conflict of interest, separate counsel shall be appointed for the minor. The court may fix the compensation to be paid by the county for the services of appointed counsel, if counsel is not a county counsel, district attorney, or public defender.

(d) The counsel appointed by the court shall represent the parent, guardian, or minor at the detention hearing and at all subsequent proceedings before the juvenile court. Counsel shall continue to represent the parent or minor unless relieved by the court upon the substitution of other counsel or for cause. The representation shall include representing the parent or the minor in termination proceedings and in those proceedings relating to the

institution or setting aside of a legal guardianship.

(e) The counsel for the minor shall be charged in general with the representation of the minor's interests. To that end, counsel shall make such further investigations as he or she deems necessary to ascertain the facts, including the interviewing of witnesses, and he or she shall examine and cross-examine witnesses in both the adjudicatory and dispositional hearings; he or she may also introduce and examine his or her own witnesses, make recommendations to the court concerning the minor's welfare, and participate further in the proceedings to the degree necessary to adequately represent the minor. In any case in which the minor is four years of age or older, counsel shall interview the minor to determine the minor's wishes and to assess the minor's well-being. In addition, counsel shall investigate the interests of the minor beyond the scope of the juvenile proceeding and report to the court other interests of the minor that may need to be protected by the institution of other administrative or judicial proceedings. The court shall take whatever appropriate action is necessary to fully protect the interests of the minor.

(f) Notwithstanding any other provision of law, counsel shall be given access to all records relevant to the case which are maintained by state or local public agencies. Counsel shall be given access to records maintained by hospitals or by other medical or nonmedical practitioners or by child care custodians, in the manner prescribed by Section 1158 of the Evidence Code.

SEC. 22. Section 318 of the Welfare and Institutions Code, as amended by Chapter 302 of the Statutes of 1985, is repealed.

SEC. 23. Section 318 is added to the Welfare and Institutions Code, to read:

318. (a) In any case in which it appears to the court that the minor would benefit from the appointment of counsel, the court shall appoint counsel for the minor. The court shall determine if a conflict of interest exists between the petitioning agency and the minor. If the court finds that there is a conflict of interest, separate counsel shall be appointed for the minor. Counsel for the minor may be a county counsel, district attorney, public defender, or other member of the bar, provided that the counsel does not represent another party or county agency whose interests conflict with the minor's interests. The fact that the district attorney represents the minor in a proceeding pursuant to Section 300 as well as conducts a criminal investigation or files a criminal complaint or information arising from the same or reasonably related set of facts as the proceeding pursuant to Section 300 is not in and of itself a conflict of interest. The court may fix the compensation to be paid by the county for the services of appointed counsel, if counsel is not a county counsel, district attorney, or public defender.

(b) The counsel appointed by the court shall represent the minor at the detention hearing and at all subsequent proceedings before the juvenile court.

(c) Any counsel upon entering an appearance on behalf of a minor shall continue to represent that minor unless relieved by the court upon the substitution of other counsel or for cause.

(d) The counsel shall be charged in general with the representation of the child's interests. In any case in which the minor is four years of age or older, counsel shall interview the minor to determine the minor's wishes and to assess the minor's well-being. Counsel shall make such further investigations as he or she deems necessary to ascertain the facts, including the interviewing of witnesses, and he or she shall examine and cross-examine witnesses in both the adjudicatory and depositional hearings; he or she may also introduce and examine his or her own witnesses, make recommendations to the court concerning the child's welfare, and participate further in the proceedings to the degree necessary to adequately represent the child. In addition, the counsel shall investigate the interests of the child beyond the scope of the juvenile proceeding and report to the court other interests of the child that may be protected by other administrative or judicial proceedings. The court shall take whatever appropriate action is necessary to fully protect the interests of the child.

(e) Notwithstanding any other provision of law, counsel shall be given access to all records relevant to the case which are maintained by state or local public agencies. Counsel shall be given access to records maintained by hospitals or by other medical or nonmedical practitioners or by child care custodians, in the manner prescribed by Section 1158 of the Evidence Code.

SEC. 24. Section 319 of the Welfare and Institutions Code is amended to read:

319. At the initial petition hearing the court shall examine the minor's parents, guardians, or other persons having relevant knowledge and hear the relevant evidence as the minor, the minor's parents or guardians, the petitioner, or their counsel desires to present. The court may examine the minor, as provided in Section 350.

The probation officer shall report to the court on the reasons why the minor has been removed from the parent's custody; the need, if any, for continued detention; on the available services and the referral methods to those services which could facilitate the return of the minor to the custody of the minor's parents or guardians; and whether there are any relatives who are able and willing to take temporary custody of the minor. The court shall order the release of the minor from custody unless a prima facie showing has been made that the minor comes within Section 300 and any of the following circumstances exist:

(a) There is a substantial danger to the physical health of the minor or the minor is suffering severe emotional damage, and there are no reasonable means by which the minor's physical or emotional health may be protected without removing the minor from the parents' or guardians' physical custody.

(b) There is substantial evidence that a parent, guardian, or custodian of the minor is likely to flee the jurisdiction of the court.

(c) The minor has left a placement in which he or she was placed by the juvenile court.

(d) The minor indicates an unwillingness to return home, if the minor has been physically or sexually abused by a person residing in the home.

The court shall also make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the minor from his or her home and whether there are available services which would prevent the need for further detention. Services to be considered for purposes of making this determination are case management, counseling, emergency shelter care, emergency in-home caretakers, out-of-home respite care, teaching and demonstrating homemakers, parenting training, transportation, and any other child welfare services authorized by the State Department of Social Services pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9. The court shall also review whether the social worker has considered whether a referral to public assistance services pursuant to Chapter 2 (commencing with Section 11200) of Part 3, Chapter 7 (commencing with Section 14000) of Part 3, Chapter 1 (commencing with Section 17000) of Part 5, and Chapter 10 (commencing with Section 18900) of Part 6, of Division 9 would have eliminated the need to take temporary custody of the minor or would prevent the need for further detention. If the minor can be returned to the custody of his or her parent or guardian through the provision of those services, the court shall place the minor with his or her parent or guardian and order that the services shall be provided. If the minor cannot be returned to the custody of his or her parent or guardian, the court shall determine if there is a relative who is able and willing to care for the child. Where the first contact with the family has occurred during an emergency situation in which the child could not safely remain at home, even with reasonable services being provided, the court shall make a finding that the lack of preplacement preventive efforts were reasonable. Whenever a court orders a minor detained, the court shall state the facts on which the decision is based, shall specify why the initial removal was necessary, and shall order services to be provided as soon as possible to reunify the minor and his or her family if appropriate.

When the minor is not released from custody the court may order that the minor shall be placed in the suitable home of a relative or in an emergency shelter or other suitable licensed place or a place exempt from licensure designated by the juvenile court for a period not to exceed 15 judicial days.

As used in this section, "relative" means an adult who is a grandparent, aunt, uncle, or a sibling of the minor.

SEC. 25. Section 328 of the Welfare and Institutions Code is amended to read:

328. Whenever the probation officer has cause to believe that there was or is within the county, or residing therein, a person described in Section 300, the probation officer shall immediately make any investigation he or she deems necessary to determine whether child welfare services should be offered to the family and whether proceedings in the juvenile court should be commenced. If the probation officer determines that it is appropriate to offer child welfare services to the family, the probation officer shall make a referral to these services pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9.

However, this section does not require an investigation by the probation officer with respect to a minor delivered or referred to any agency pursuant to Section 307.5.

The probation officer shall interview any minor four years of age or older who is a subject of an investigation, and who is in juvenile hall or other custodial facility, or has been removed to a foster home, to ascertain the minor's view of the home environment. If proceedings are commenced, the probation officer shall include the substance of the interview in any written report submitted at an adjudicatory hearing, or if no report is then received in evidence, the probation officer shall include the substance of the interview in the social study required by Section 358.

SEC. 26. Section 332 of the Welfare and Institutions Code is amended to read:

332. A petition to commence proceedings in the juvenile court to declare a minor a ward or a dependent child of the court shall be verified and shall contain all of the following:

(a) The name of the court to which it is addressed.

(b) The title of the proceeding.

(c) The code section and the subdivision under which the proceedings are instituted. If it is alleged that the minor is a person described by subdivision (e) of Section 300, the petition shall include an allegation pursuant to that section.

(d) The name, age, and address, if any, of the minor upon whose behalf the petition is brought.

(e) The names and residence addresses, if known to the petitioner, of both parents and any guardian of the minor. If there is no parent or guardian residing within the state, or if his or her place of residence is not known to the petitioner, the petition shall also contain the name and residence address, if known, of any adult relative residing within the county, or, if there is none, the adult relative residing nearest to the location of the court.

(f) A concise statement of facts, separately stated, to support the conclusion that the minor upon whose behalf the petition is being brought is a person within the definition of each of the sections and subdivisions under which the proceedings are being instituted.

(g) The fact that the minor upon whose behalf the petition is brought is detained in custody or is not detained in custody, and if he or she is detained in custody, the date and the precise time the

minor was taken into custody.

(h) A notice to the father, mother, spouse, or other person liable for support of the minor child, of all of the following: (1) Section 903 makes that person, the estate of that person, and the estate of the minor child, liable for the cost of the care, support, and maintenance of the minor child in any county institution or any other place in which the child is placed, detained, or committed pursuant to an order of the juvenile court; (2) Section 903.1 makes that person, the estate of that person, and the estate of the minor child, liable for the cost to the county of legal services rendered to the minor or the parent by a private attorney or a public defender appointed pursuant to the order of the juvenile court; (3) Section 903.2 makes that person, the estate of that person, and the estate of the minor child, liable for the cost to the county of the probation supervision of the minor child by the probation officer pursuant to the order of the juvenile court; and (4) the liabilities established by these sections are joint and several.

SEC. 27. Section 335 of the Welfare and Institutions Code is amended to read:

335. Upon the filing of the petition, the clerk of the juvenile court shall issue a notice, to which shall be attached a copy of the petition, and he or she shall cause the same to be served upon the minor, if the minor is 10 or more years of age, and upon each of the persons described in subdivision (e) of Section 332 whose residence addresses are set forth in the petition and thereafter before the hearing upon all such persons whose residence addresses become known to the clerk. The clerk shall issue a copy of the petition to the attorney for the minor's parent or guardian and to the district attorney, if the district attorney has notified the clerk of the court that he or she wishes to receive the petition, containing the time, date, and place of the hearing.

SEC. 28. Section 336 of the Welfare and Institutions Code is amended to read:

336. The notice shall contain all of the following:

(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 parent or guardian or adult relative to whom notice is required to be given, and the minor, are entitled to have an attorney present at the hearing on the petition, and that, if the parent or guardian or an adult relative is indigent and cannot afford an attorney, and desires to be represented by an attorney, the 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. 29. Section 340 of the Welfare and Institutions Code is amended to read:

340. Whenever a petition has been filed in the juvenile court alleging that a minor comes within Section 300 and praying for a hearing thereon, or whenever any subsequent petition has been filed praying for a hearing in the matter of the minor and it appears to the court that the circumstances of his or her home environment may endanger the health, person, or welfare of the minor, or whenever a dependent minor has run away from his or her court ordered placement, a protective custody warrant may be issued immediately for the minor.

SEC. 30. Section 342 is added to the Welfare and Institutions Code, to read:

342. In any case in which a minor has been found to be a person described by Section 300 and the petitioner alleges new facts or circumstances which indicate that there is reasonable cause to believe that the minor is a person described in a subdivision other than the subdivision of Section 300 under which the previous or original petition was sustained, the petitioner shall file a subsequent petition.

All procedures and hearings required for an original petition are applicable to a subsequent petition filed under this section.

SEC. 31. Section 345 of the Welfare and Institutions Code is amended to read:

345. All cases under this chapter shall be heard at a special or separate session of the court, and no other matter shall be heard at such a session. No person on trial, awaiting trial, or under accusation of crime, other than a parent, guardian, or relative of the minor, shall be permitted to be present at any such session, except as a witness.

Cases in which the minor is detained and the sole allegation is that the minor is a person described in Section 300 shall be granted precedence on the calendar of the court for the day on which the case is set for hearing.

SEC. 32. Section 350 of the Welfare and Institutions Code is amended to read:

350. (a) The judge of the juvenile court shall control all proceedings during the hearings with a view to the expeditious and effective ascertainment of the jurisdictional facts and the ascertainment of all information relative to the present condition and future welfare of the person upon whose behalf the petition is brought. Except where there is a contested issue of fact or law, the proceedings shall be conducted in an informal nonadversary atmosphere with a view to obtaining the maximum cooperation of the minor upon whose behalf the petition is brought and all persons

interested in his or her welfare with such provisions as the court may make for the disposition and care of the minor.

(b) The testimony of a minor may be taken in chambers and outside the presence of the minor's parent or parents, if the minor's parent or parents are represented by counsel, the counsel is present and any of the following circumstances exist:

(1) The court determines that testimony in chambers is necessary to ensure truthful testimony.

(2) The minor is likely to be intimidated by a formal courtroom setting.

(3) The minor is afraid to testify in front of his or her parent or parents.

After testimony in chambers, the parent or parents of the minor may elect to have the court reporter read back the testimony or have the testimony summarized by counsel for the parent or parents.

The testimony of a minor also may be taken in chambers and outside the presence of the guardian or guardians of a minor under the circumstances specified in this subdivision.

(c) At any hearing in which the probation department bears the burden of proof, after the presentation of evidence on behalf of the probation department has been closed, the court, on motion of the minor, parent or guardian, or on its own motion, shall order whatever action the law requires of it if the court, upon weighing the evidence then before it, finds that the probation department has not met its burden. That action includes, but is not limited to, the dismissal of the petition and release of the minor at a jurisdictional hearing, the return of the minor at an out-of-home review held prior to the permanency planning hearing, or the termination of jurisdiction at an in-home review. If the motion is not granted, the minor, parent, or guardian may offer evidence without first having reserved that right.

SEC. 33. Section 353 of the Welfare and Institutions Code is amended to read:

353. At the beginning of the hearing on a petition filed pursuant to Article 8 (commencing with Section 325) of this chapter, the judge or clerk shall first read the petition to those present. Upon request of any parent, guardian, or adult relative, counsel for the minor, or the minor, if he or she is present, the judge shall explain any term of allegation contained therein and the nature of the hearing, its procedures, and possible consequences. The judge shall ascertain whether the parent, guardian, or adult relative and, when required by Section 317, the minor have been informed of their right to be represented by counsel, and if not, the judge shall advise those persons, if present, of the right to have counsel present and where applicable, of the right to appointed counsel. If such a person is unable to afford counsel and desires to be represented by counsel, the court shall appoint counsel in accordance with Sections 317 and 318. The court shall continue the hearing for not to exceed seven days, as necessary to make an appointment of counsel, or to enable

counsel to acquaint himself or herself with the case, or to determine whether the parent or guardian or adult relative is unable to afford counsel at his or her own expense, and shall continue the hearing as necessary to provide reasonable opportunity for the minor and the parent or guardian or adult relative to prepare for the hearing.

SEC. 34. Section 355 of the Welfare and Institutions Code is amended to read:

355. At the jurisdictional hearing, the court shall first consider only the question whether the minor is a person described by Section 300, and for this purpose, any matter or information relevant and material to the circumstances or acts which are alleged to bring him or her within the jurisdiction of the juvenile court is admissible and may be received in evidence. However, proof by a preponderance of evidence, legally admissible in the trial of civil cases must be adduced to support a finding that the minor is a person described by Section 300. If the parent or guardian is not represented by counsel at the hearing, it shall be deemed that objections that could have been made to the evidence were made.

SEC. 35. Section 355.1 of the Welfare and Institutions Code is amended to read:

355.1. (a) Where the court finds, based upon competent professional evidence, that an injury, injuries, or detrimental condition sustained by a minor, of such a nature as would ordinarily not be sustained except as the result of the unreasonable or neglectful acts or omissions of either parent, the guardian, or other person who has the care or custody of the minor, that evidence shall be prima facie evidence that the minor is a person described by subdivision (a), (b), or (d) of Section 300.

(b) Proof that either parent, the guardian, or other person who has the care or custody of a minor who is the subject of a petition filed under Section 300, has physically abused, neglected, or cruelly treated another minor shall be admissible in evidence.

(c) The presumption created by subdivision (a) constitutes a presumption affecting the burden of producing evidence.

(d) Testimony by a parent, guardian, or other person who has the care or custody of the minor made the subject of a proceeding under Section 300 shall not be admissible as evidence in any other action or proceeding.

SEC. 35.1. Section 355.2 of the Welfare and Institutions Code is repealed.

SEC. 35.2. Section 355.3 of the Welfare and Institutions Code is repealed.

SEC. 35.3. Section 355.4 of the Welfare and Institutions Code is repealed.

SEC. 35.4. Section 355.5 of the Welfare and Institutions Code is repealed.

SEC. 35.5. Section 355.6 of the Welfare and Institutions Code is repealed.

SEC. 35.6. Section 355.7 of the Welfare and Institutions Code is

repealed.

SEC. 36. 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. Prior to making a finding required by this section, the court may continue the hearing on its own motion, the motion of the parent or guardian, or the motion of the minor, as follows:

(1) If the minor is detained during the continuance, and the probation officer is not alleging that subdivision (b) of Section 361.5 is applicable, the continuance shall not exceed 10 judicial days. The court may make such order for detention of the minor or for the minor's release from detention, during the period of continuance, as is appropriate.

(2) If the minor is not detained during the continuance, the continuance shall not exceed 30 days after the date of the finding pursuant to Section 356. However, the court may, for cause, continue the hearing for an additional 15 days.

(3) If the probation officer is alleging that subdivision (b) of Section 361.5 is applicable, the court shall continue the proceedings for a period not to exceed 30 days. The probation officer shall notify each parent of the content of subdivision (b) of Section 361.5 and shall inform each parent that if the court does not order reunification a permanency planning hearing will be held, and that his or her parental rights may be terminated within the time frames specified by law.

(b) Before determining the appropriate disposition, 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.

(c) If the court finds that a minor is described by subdivision (f) of Section 300 or that subdivision (b) of Section 361.5 may be applicable, the court shall conduct the dispositional proceeding pursuant to subdivision (c) of Section 361.5.

(d) This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1989, deletes or extends that date.

SEC. 37. Section 358 is added to the Welfare and Institutions Code, 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. Prior to making a finding

required by this section, the court may continue the hearing on its own motion, the motion of the parent or guardian, or the motion of the minor, as follows:

(1) If the minor is detained during the continuance, and the probation officer is not alleging that subdivision (b) of Section 361.5 is applicable, the continuance shall not exceed 10 judicial days. The court may make such order for detention of the minor or for the minor's release from detention, during the period of continuance, as is appropriate.

(2) If the minor is not detained during the continuance, the continuance shall not exceed 30 days after the date of the finding pursuant to Section 356. However, the court may, for cause, continue the hearing for an additional 15 days.

(3) If the probation officer is alleging that subdivision (b) of Section 361.5 is applicable, the court shall continue the proceedings for a period not to exceed 30 days. The probation officer shall notify each parent of the content of subdivision (b) of Section 361.5 and shall inform each parent that if the court does not order reunification a permanency planning hearing will be held, and that his or her parental rights may be terminated within the time frames specified by law.

(b) Before determining the appropriate disposition, 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.

(c) If the court finds that a minor is described by subdivision (h) of Section 300 or that subdivision (b) of Section 361.5 may be applicable, the court shall conduct the dispositional proceeding pursuant to subdivision (c) of Section 361.5.

SEC. 38. Section 361 of the Welfare and Institutions Code is amended to read:

361. (a) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all such limitations. The limitations shall not exceed those necessary to protect the child.

(b) No dependent child shall be taken from the physical custody of his or her parents or guardian or guardians with whom the child resides at the time the petition was initiated unless the juvenile court finds clear and convincing evidence of any of the following:

(1) There is a substantial danger to the physical health of the minor or would be if the minor was returned home, and there are

no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parents' or guardians' physical custody. The fact that a minor has been adjudicated a dependent child of the court pursuant to subdivision (e) of Section 300 shall constitute prima facie evidence that the minor cannot be safely left in the custody of the parent or guardian with whom the minor resided at the time of injury.

(2) The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366.25 or 366.26, the minor may be declared permanently free from their custody and control.

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the physical custody of his or her parent or guardian.

(4) The minor has been sexually abused by a parent, guardian, or member of his or her household or other person known to his or her parent and there are no reasonable means by which the minor can be protected from further sexual abuse without removing the minor from his or her parent or guardian or the minor does not wish to return to his or her parent or guardian.

(5) The minor has been left without any provision for his or her support, or a parent who has been incarcerated or institutionalized cannot arrange for the care of the minor, or a relative or other adult custodian with whom the child has been left by the parent is unwilling or unable to provide care or support for the child and the whereabouts of the parent is unknown and reasonable efforts to locate him or her have been unsuccessful.

(c) The court shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the minor from his or her home or, if the minor is removed for one of the reasons stated in paragraph (5) of subdivision (b), whether it was reasonable under the circumstances not to make any such efforts. The court shall state the facts on which the decision to remove the minor is based.

(d) The court shall make all of the findings required by subdivision (a) of Section 366 in either of the following circumstances:

(1) The minor has been taken from the custody of his or her parents or guardians and has been living in an out-of-home placement pursuant to Section 319.

(2) The minor has been living in a voluntary out-of-home placement pursuant to Section 16507.4.

SEC. 39. Section 361.5 of the Welfare and Institutions Code is amended to read:

361.5. (a) Except as provided in subdivision (b), whenever a

minor is removed from a parent's or guardian's custody, the juvenile court shall order the probation officer to provide child welfare services to the minor and the minor's parents or guardians for the purpose of facilitating reunification of the family within a maximum time period not to exceed 12 months. The court also shall make findings pursuant to subdivision (a) of Section 366. When counseling or other treatment services are ordered, the parent shall be ordered to participate in those services, unless the parent's participation is deemed by the court to be inappropriate or potentially detrimental to the child. Services may be extended up to an additional six months if it can be shown that the objectives of the service plan can be achieved within the extended time period. Physical custody of the minor by the parents or guardians during the 18-month period shall not serve to interrupt the running of the period.

Except in cases where, pursuant to subdivision (b), the court does not order reunification services, the court shall inform the parent or parents of the provision of Section 366.25 or 366.26 and shall specify that the parent's or parents' parental rights may be terminated.

(b) Reunification services need not be provided to a parent described in this subdivision when the court finds, by clear and convincing evidence, any of the following:

(1) That the whereabouts of the parents is unknown. A finding pursuant to this paragraph shall be supported by an affidavit or by proof that a reasonably diligent search has failed to locate the parent. The posting or publication of notices is not required in such a search.

(2) That the parent is suffering from a mental disability that is described in Section 232 of the Civil Code and that renders him or her incapable of utilizing those services.

(3) That the minor had been previously adjudicated a dependent pursuant to any subdivision of Section 300 as a result of physical or sexual abuse, that following that adjudication the minor had been removed from the custody of his or her parent or guardian pursuant to Section 361, that the minor has been returned to the custody of the parent or parents, guardian, or guardians from whom the minor had been taken originally, and that the minor is being removed pursuant to Section 361, due to additional physical or sexual abuse. However, this section is not applicable if the jurisdiction of the juvenile court has been dismissed prior to the additional abuse.

(4) That the parent of the minor has been convicted of causing the death of another child through abuse or neglect.

(5) That the minor was brought within the jurisdiction of the court under subdivision (e) of Section 300 because of the conduct of that parent.

(c) In deciding whether to order reunification in any case in which this section applies, the court shall hold a dispositional hearing. The probation officer shall prepare a report which discusses whether reunification services shall be provided. When it is alleged, pursuant to paragraph (2) of subdivision (b), that the parent is incapable of utilizing services due to mental disability, the court shall order

reunification services unless competent evidence from mental health professionals establishes that, even with the provision of services, the parent is unlikely to be capable of adequately caring for the child within 12 months.

When paragraph (3), (4), or (5), inclusive, of subdivision (b) is applicable, the court shall not order reunification unless it finds that, based on competent testimony, those services are likely to prevent reabuse or continued neglect of the child or that failure to try reunification will be detrimental to the child because the child is closely and postively attached to that parent. The probation officer shall investigate the circumstances leading to the removal of the minor and advise the court whether there are circumstances which indicate that reunification is likely to be successful or unsuccessful and whether failure to order reunification is likely to be detrimental to the child.

The failure of the parent to respond to previous services, the fact that the child was abused while the parent was under the influence of drugs or alcohol, a past history of violent behavior, or testimony by a competent professional that the parent's behavior is unlikely to be changed by services are among the factors indicating that reunification services are unlikely to be successful. The fact that a parent or guardian is no longer living with an individual who severely abused the minor may be considered in deciding that reunification services are likely to be successful, provided that the court shall consider any pattern of behavior on the part of the parent that has exposed the child to repeated abuse.

(d) If reunification services are not ordered pursuant to paragraph (1) of subdivision (b) and the whereabouts of a parent become known within six months of the out-of-home placement of the minor, the court shall order the probation officer to provide family reunification services in accordance with this subdivision. However, the time limits specified in Section 366.25 are not tolled by the parent's absence.

(e) If the parent or guardian is incarcerated or institutionalized, the court shall order reasonable services unless the court determines those services would be detrimental to the minor. In determining detriment, the court shall consider the age of child, the degree of parent-child bonding, the length of the sentence, the nature of the treatment, the nature of crime or illness, the degree of detriment to the child if services are not offered and, for minors 10 years of age or older, the minor's attitude toward the implementation of family reunification services, and any other appropriate factors. Services may include, but shall not be limited to, all of the following:

(1) Maintaining contact between parent and child through collect phone calls.

(2) Transportation services, where appropriate.

(3) Visitation services, where appropriate.

(4) Reasonable services to extended family members or foster parents providing care for the child if the services are not

detrimental to the child.

An incarcerated parent may be required to attend counseling, parenting classes, or vocational training programs as part of the service plan if these programs are available.

(f) If a court, pursuant to paragraph (2), (3), (4), or (5) of subdivision (b), does not order reunification services, it shall conduct a hearing pursuant to Section 366.25 or 366.26 within 120 days of the dispositional hearing.

(g) Whenever a court orders that a permanency planning hearing shall be held it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties which are not served by a county adoption agency, to prepare an assessment which shall include current search efforts for an absent parent or parents; a review of the amount of and nature of any contact between the minor and his or her parents since the time of placement; an evaluation of the minor's medical, developmental, scholastic, mental, and emotional status; a preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent, particularly the caretaker; and an analysis of the likelihood that the minor will be adopted if parental rights are terminated. In any case involving a minor 10 years of age or older the report shall also indicate the minor's attitude toward placement and termination of parental rights.

SEC. 40. Section 364 of the Welfare and Institutions Code is amended to read:

364. (a) Every hearing in which an order is made placing a minor under the supervision of the juvenile court pursuant to Section 300 and in which the minor is not removed from the physical custody of his or her parent or guardian shall be continued to a specific future date not to exceed six months after the date of the original dispositional hearing. The continued hearing shall be placed on the appearance calendar. The court shall advise all persons present of the date of the future hearings, of their rights to be present, and to be represented by counsel.

(b) At least 10 calendar days prior to the hearing, the probation officer shall file a supplemental report with the court describing the services offered to the family and the progress made by the family in eliminating the conditions or factors requiring court supervision. The probation officer shall also make a recommendation regarding the necessity of continued supervision. A copy of this report shall be furnished to all parties at least 10 calendar days prior to the hearing.

(c) After hearing any evidence presented by the probation officer, the parent, the guardian, or the minor, the court shall determine whether continued supervision is necessary. The court shall terminate its jurisdiction unless the probation department establishes by a preponderance of evidence that the conditions still exist which would justify initial assumption of jurisdiction under Section 300, or that such conditions are likely to exist if supervision

is withdrawn. Failure of the parent or guardian to participate regularly in any court ordered treatment program shall constitute prima facie evidence that the conditions which justified initial assumption of jurisdiction still exist and that continued supervision is necessary.

(d) If the court retains jurisdiction it shall continue the matter to a specified date, not more than six months from the time of the hearing, at which point the court shall again follow the procedure specified in subdivision (c).

(e) In any case in which the court has ordered that a parent or guardian shall retain physical custody of a minor subject to supervision by a probation officer, and the probation officer subsequently receives a report of acts or circumstances which indicate that there is reasonable cause to believe that the minor is a person described in subdivision (a), (d), or (e) of Section 300, the probation officer shall commence proceedings under this chapter. If, as a result of the proceedings required, the court finds that the minor is a person described in subdivision (a), (d), or (e) of Section 300, the court shall remove the minor from the care, custody, and control of the minor's parent or guardian and shall commit the minor to the care, custody, and control of the probation officer pursuant to Section 361.5.

SEC. 41. Section 366.1 of the Welfare and Institutions Code is amended to read:

366.1. Each supplemental report required to be filed pursuant to Section 366 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 those 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 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.

(d) What actions, if any, have been taken by the parent to correct the problems which caused the child to be made a dependent child of the court.

SEC. 42. Section 366.2 of the Welfare and Institutions Code is amended to read:

366.2. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing, of their right to be present and represented by counsel.

(b) Except as provided in Section 366.3, notice of the hearing shall be mailed by the probation officer to the same persons as in the

original proceeding, to the minor's parent or guardian, to the foster parents, community care facility, or foster family agency having physical custody of the minor in the case of a minor removed from the physical custody of his or her parent or guardian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on those persons, not earlier than 30 days nor later than 15 days preceding the date to which the hearing was continued.

(c) At least 10 calendar days prior to the hearing the probation officer shall file a supplemental report with the court regarding the services offered to the family, the progress made, and, where relevant, the prognosis for return of the minor to the physical custody of his or her parent or guardian, and make his or her recommendation for disposition. The probation officer shall provide the parent or parents with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a minor removed from the physical custody of his or her parent or guardian, the probation officer shall provide a summary of his or her recommendation for disposition to the counsel for the minor, any court appointed child advocate, foster parents, community care facility, or foster family agency having the physical custody of the minor at least 10 calendar days before the hearing.

(d) Prior to any hearing involving a minor in the physical custody of a community care facility or foster family agency that may result in the return of the minor to the physical custody of his or her parent or guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report containing its recommendation for disposition. Prior to any such hearing involving a minor in the physical custody of a foster parent, the foster parent may file with the court a report containing its recommendation for disposition. The court shall consider any such report and recommendation prior to determining any disposition.

(e) The court shall proceed as follows at the review hearing: The court shall order the return of the minor to the physical custody of his or her parents or guardians unless, by a preponderance of the evidence, it finds that the return of the child would create a substantial risk of detriment to the physical or emotional well-being of the minor. The probation department shall have the burden of establishing that detriment. The failure of the parent or guardian to participate regularly in any court-ordered treatment programs shall constitute prima facie evidence that return would be detrimental. In making its determination, the court shall review the probation officer's report and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of services provided; shall make appropriate findings; and where relevant, shall order any additional services reasonably believed to facilitate the return of the minor to the custody of his or her parent or guardian. The court shall

also inform the parent or guardian that if the minor cannot be returned home by the next review hearing, a proceeding pursuant to Section 232 of the Civil Code may be instituted. This section does not apply in a case where, pursuant to Section 361.5, the court has ordered that reunification services shall not be provided.

(f) This section shall apply only to minors made dependents of the court pursuant to subdivision (c) of Section 360 prior to January 1, 1989.

SEC. 43. Section 366.21 is added to the Welfare and Institutions Code, to read:

366.21. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing, of their right to be present and represented by counsel.

(b) Except as provided in Section 366.23 and subdivision (a) of Section 366.3, notice of the hearing shall be mailed by the probation officer to the same persons as in the original proceeding, to the minor's parent or guardian, to the foster parents, community care facility, or foster family agency having physical custody of the minor in the case of a minor removed from the physical custody of his or her parent or guardian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on those persons, not earlier than 30 days nor later than 15 days preceding the date to which the hearing was continued.

The notice shall contain a statement regarding the nature of the hearing to be held and any change in the custody or status of the minor being recommended by the supervising agency. The notice to the foster parent shall indicate that the foster parent may attend all hearings or may submit any information he or she deems relevant to the court in writing.

(c) At least 10 calendar days prior to the hearing the probation officer shall file a supplemental report with the court regarding the services provided or offered to the parents to enable them to assume custody, the progress made, and, where relevant, the prognosis for return of the minor to the physical custody of his or her parent or guardian, and make his or her recommendation for disposition. If the recommendation is not to return the minor to a parent, the report shall specify why the return of the minor would be detrimental to the minor. The probation officer shall provide the parent or parents with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a minor removed from the physical custody of his or her parent or guardian, the probation officer shall provide a summary of his or her recommendation for disposition to the counsel for the minor, any court appointed child advocate, foster parents, community care facility, or foster family agency having the physical custody of the minor at least 10 calendar days before the hearing.

(d) Prior to any hearing involving a minor in the physical custody of a community care facility or foster family agency that may result in the return of the minor to the physical custody of his or her parent or guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report containing its recommendation for disposition. Prior to any such hearing involving a minor in the physical custody of a foster parent, the foster parent may file with the court a report containing its recommendation for disposition. The court shall consider any such report and recommendation prior to determining any disposition.

(e) At the review hearing held six months after the initial dispositional hearing, the court shall order the return of the minor to the physical custody of his or her parents or guardians unless, by a preponderance of the evidence, it finds that the return of the child would create a substantial risk of detriment to the physical or emotional well-being of the minor. The probation department shall have the burden of establishing that detriment. The failure of the parent or guardian to participate regularly in any court-ordered treatment programs shall constitute prima facie evidence that return would be detrimental. In making its determination, the court shall review the probation officer's report, shall review and consider the report and recommendations of any child advocate appointed pursuant to Section 356.5, and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of services provided; shall make appropriate findings pursuant to subdivision (a) of Section 366; and where relevant, shall order any additional services reasonably believed to facilitate the return of the minor to the custody of his or her parent or guardian. The court shall also inform the parent or guardian that if the minor cannot be returned home by the next review hearing, a proceeding pursuant to Section 366.26 may be instituted. This section does not apply in a case where, pursuant to Section 361.5, the court has ordered that reunification services shall not be provided.

If the minor was removed initially under subdivision (g) of Section 300 and the court finds by clear and convincing evidence that the whereabouts of the parent are still unknown, or the parent has failed to contact and visit the child, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If the court finds by clear and convincing evidence that the parent has been convicted of a felony indicating parental unfitness, the court may schedule a hearing pursuant to Section 366.26 within 120 days.

If the minor had been placed under court supervision with a previously noncustodial parent pursuant to Section 361.2, the court shall determine whether supervision is still necessary. The court may terminate supervision and transfer permanent custody to that parent, as provided for by paragraph (1) of subdivision (a) of Section 361.2.

In all other cases, the court shall direct that any reunification

services previously ordered shall continue to be offered to the parent or guardian, provided that the court may modify the terms and conditions of those services. If the child is not returned to his or her parent or parents, the court shall determine whether reasonable services have been provided or offered to the parent or parents which were designed to aid the parent or parents overcome the problems which led to the initial removal. The court shall order that those services be initiated or continued.

(f) At the review hearing held 12 months after the initial dispositional hearing, the court shall order the return of the minor to the physical custody of his or her parent or guardian unless, by a preponderance of the evidence, it finds that return of the child would create a substantial risk or detriment to the physical or emotional well-being of the minor. The probation department shall have the burden of establishing that detriment. The court shall also determine whether reasonable services have been provided or offered to the parent or parents which were designed to aid the parent or parents to overcome the problems which led to the initial removal and continued custody of the minor. The failure of the parent or guardian to participate regularly in any court-ordered treatment programs shall constitute prima facie evidence that return would be detrimental. In making its determination, the court shall review the probation officer's report and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of services provided. If the minor is not returned to a parent or guardian, the court shall specify the factual basis for its conclusion that return would be detrimental. The court also shall make a finding pursuant to subdivision (a) of Section 366.

(g) If a minor is not returned to the custody of a parent or guardian at the hearing held pursuant to subdivision (f), the court shall do one of the following:

(1) Continue the case for up to six months for another review hearing, provided that the hearing shall occur within 18 months of the date the child was originally taken from the physical custody of his or her parent or guardian. The court shall continue the case only if it finds that there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months or that reasonable services have not been provided to the parent or parents. The court shall inform the parent or guardian that if the minor cannot be returned home by the next review hearing, a permanent plan shall be developed at that hearing. The court shall not order that a hearing pursuant to Section 366.26 be held unless there is clear and convincing evidence that reasonable services have been provided or offered to the parents.

(2) Order that a hearing be held within 120 days, pursuant to Section 366.26.

(h) In any case in which the court orders that a hearing pursuant to Section 366.26 shall be held, it shall also order the termination of

reunification services to the parent. The court shall continue to permit the parent to visit the minor pending the hearing unless it finds that visitation would be detrimental to the minor.

(i) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when acting as an adoption agency in counties which are not served by a county adoption agency, to prepare an assessment which shall include current search efforts for an absent parent or parents; a review of the amount of and nature of any contact between the minor and his or her parents since the time of placement; an evaluation of the minor's medical, developmental, scholastic, mental, and emotional status; a preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent, particularly the caretaker; and an analysis of the likelihood that the minor will be adopted if parental rights are terminated. In any case involving a minor 10 years of age or older, the report shall also indicate the minor's attitude toward placement and termination of parental rights.

(j) This section shall apply to minors made dependents of the court pursuant to subdivision (c) of Section 360 on or after January 1, 1989.

SEC. 44. Section 366.22 is added to the Welfare and Institutions Code, to read:

366.22. (a) When a case has been continued pursuant to paragraph (1) of subdivision (g) of Section 366.21, the court, at the 18-month hearing, shall order the return of the minor to the physical custody of his or her parent or guardian unless, by a preponderance of the evidence, it finds that return of the child would create a substantial risk of detriment to the physical or emotional well-being of the minor. The probation department shall have the burden of establishing the detriment. The failure of the parent or guardian to participate regularly in any court-ordered treatment programs shall constitute prima facie evidence that return would be detrimental. In making its determination, the court shall review the probation officer's report and shall review and consider the report and recommendations of any child advocate appointed pursuant to Section 356.6 and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of services provided. If the minor is not returned to a parent or guardian, the court shall specify the factual basis for its conclusion that return would be detrimental.

If the minor is not returned to a parent or guardian at the 18-month hearing, the court shall develop a permanent plan. The court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, guardianship, or long-term foster care is the most appropriate plan for the minor. However, if the court finds by clear and convincing evidence, based on the evidence

already presented to it that the minor is not adoptable and has no one willing to accept legal guardianship, the court may order that the minor remain in long-term foster care. The hearing shall be held no later than 120 days from the date of the 18-month hearing. The court shall also order termination of reunification services to the parent. The court may, if it is in the interests of the minor, continue to permit the parent to visit the minor.

(b) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties which are not served by a county adoption agency, to prepare an assessment which shall include current search efforts for an absent parent or parents; a review of the amount of and nature of any contact between the minor and his or her parents since the time of placement; an evaluation of the minor's medical, developmental, scholastic, mental, and emotional status; a preliminary assessment of the eligibility and commitment of any identified prospective parent, particularly the caretaker; and an analysis of the likelihood that the minor will be adopted if parental rights are terminated. In any case involving a minor 10 years of age or older, the report shall also indicate the minor's attitude toward placement and termination of parental rights.

SEC. 45. Section 366.23 is added to the Welfare and Institutions Code, to read:

366.23. (a) Whenever a juvenile court schedules a hearing pursuant to Section 366.26 regarding a minor, it shall direct that the father and mother of the minor, if their place of residence is known or, if the place of residence of the father or mother is not known to the petitioner, then the grandparents and adult brothers, sisters, uncles, and aunts of the minor, if there are any and if their residences and relationships to the minor are known, shall be notified of the time and place of the proceedings and advised that they may appear. The notice shall also advise the person or persons of the rights and procedures set forth in Section 366.26. In all cases where a parent has relinquished his or her child for the purpose of adoption, no notice need be given to that parent. Service of the notice shall be completed at least 45 days before the date of the hearing. If the probation officer is recommending termination of parental rights, all persons entitled to receive notice shall also be notified of the recommendation at least 15 days before the scheduled hearing. Notice may be given in any of the following manners:

(1) Personal service to the party named in the notice.

(2) Delivery to a competent person who is at least 18 years of age at the party's usual place of residence or business, and thereafter mailed to the party named in the notice by first-class mail at the place where the notice was delivered.

(3) If the place of residence is outside the state, service may be made in the manner prescribed in paragraph (1) or (2), or by

certified mail, return receipt requested.

(4) If the father or mother of the minor or any person alleged to be or claiming to be the father or mother cannot, with reasonable diligence, be served as provided for in paragraph (1), (2), or (3) or if his or her place of residence is not known, the probation officer shall file an affidavit with the court at least 75 days before the date of the hearing, stating the name of the father or mother or alleged father or mother and his or her place of residence, if known, and the name of the father or mother or alleged father or mother whose place of residence is unknown to the petitioner. Unless the court has determined at the review hearing that it is not in the interest of the minor to consider the termination of parental rights at the hearing held pursuant to Section 366.26, the court shall order that the service be made by publication of a citation requiring the father or mother, or alleged father or mother, to appear at the time and place stated in the citation, and that the citation be published in a newspaper designated as most likely to give notice to the father or mother. Publication shall be made once a week for four successive weeks. In case of publication where the residence of a parent or alleged parent becomes known, notice shall immediately be served upon the parent or alleged parent by personal service or by mail addressed to the parent or alleged parent at his or her place of residence. When publication is ordered, service of a copy of the notice in the manner provided for in paragraph (1), (2), or (3) is equivalent to publication.

If the identity of one or both of the parents of the minor is unknown or if the name of either or both of his or her parents is uncertain, then that fact shall be set forth in the affidavit and the court shall order the citation to be directed to either the father or the mother, or both, of the minor, and to all persons claiming to be the father or mother of the minor naming and otherwise describing the minor.

(b) Service is deemed complete at the time the notice is personally delivered to the party named in the notice, or 10 days after the notice has been placed in the mail, or at the expiration of the time prescribed by the order for publication, whichever occurs first.

SEC. 46. Section 366.25 of the Welfare and Institutions Code is amended to read:

366.25. (a) In order to provide stable, permanent homes for children, a court shall, if the minor cannot be returned home pursuant to subdivision (e) of Section 366.2, conduct a permanency planning hearing to make a determination regarding the future status of the minor no later than 12 months after the original dispositional hearing in which the child was removed from the custody of his or her parent, parents, or guardians, and in no case later than 18 months from the time of the minor's original placement pursuant to Section 319 or Section 16507.4 and periodically, but no less frequently than once each 18 months, thereafter during the continuation of foster care. The permanency planning hearing may

be combined with the six months' review as provided for in Section 366. In the case of a minor who comes within subdivision (b) of Section 361.5 and for whom the court has found that reunification services should not be provided, a permanency planning hearing shall be held pursuant to Section 361.5.

(b) Notice of the proceeding to conduct the review shall be mailed by the probation officer to the same persons as in an original proceeding, to the minor's present custodian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on those persons not earlier than 30 days, nor later than 15 days prior to the date the review is to be conducted.

(c) Except in cases where permanency planning is conducted pursuant to Section 361.5, the court shall first determine at the hearing whether the minor should be returned to his or her parent or guardian, pursuant to subdivision (e) of Section 366.2. If the minor is not returned to the custody of his or her parent or guardian the court shall determine whether there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months. If the court so determines it shall set another review hearing for not more than six months, which shall be a permanency planning hearing.

(d) If the court determines that the minor cannot be returned to the physical custody of his or her parent or guardian and that there is not a substantial probability that the minor will be returned within six months, the court shall develop a permanent plan for the minor. In order to enable the minor to obtain a permanent home the court shall make the following determinations and orders:

(1) If the court finds that it is likely that the minor can or will be adopted, the court shall authorize the appropriate county or state agency to proceed to free the minor from the custody and control of his or her parents or guardians pursuant to Section 232 of the Civil Code unless the court finds that any of the following conditions exist:

(A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing this relationship.

(B) A minor 10 years of age or older objects to termination of parental rights.

(C) The minor's foster parents, including relative caretakers, are unable to adopt the minor because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the minor, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the minor.

(2) If the court finds that it is not likely that the minor can or will be adopted or that one of the conditions in subparagraph (A), (B), or (C) of paragraph (1) applies, the court shall order the appropriate county department to initiate or facilitate the placement of the

minor in a home environment that can be reasonably expected to be stable and permanent. This may be accomplished by initiating legal guardianship proceedings or long-term foster care. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the child and if a suitable guardian can be found. When the minor is in a foster home and the foster parents, including relative caretakers, are willing and capable of providing a stable and permanent environment, the minor shall not be removed from the home if the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the foster parents.

(3) (A) If the court finds that it is not likely that the minor can or will be adopted, that there is no suitable adult available to become the legal guardian of the minor, and that there are no suitable foster parents except certified homes available to provide the minor with a stable and permanent environment, the court may order the care, custody, and control of the minor transferred from the county welfare department or probation department to a licensed foster family agency. The court shall consider the written recommendation of the county welfare director or chief probation officer regarding the suitability of such a transfer. The transfer shall be subject to further court orders.

(B) The licensed foster family agency shall place the minor in a suitable licensed or other family home which has been certified by the agency as meeting licensing standards. The licensed foster family agency shall be responsible for supporting the minor and for providing appropriate services to the minor, including those services ordered by the court. Responsibility for support of the minor shall not in and of itself create liability on the part of the foster family agency to third persons injured by the minor. Those minors whose care, custody, and control are transferred to a foster family agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

(C) Subsequent reviews for these minors shall be conducted every six months by the court. The licensed foster family agency shall be required to submit reports for each minor in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the minor's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the minor.

(e) The proceeding for the appointment of a guardian for a minor who is a dependent child of the juvenile court shall be in the juvenile court. The court shall receive into evidence a report and recommendation concerning the proposed guardianship. The report shall include, but not be limited to, a discussion of all of the following:

(1) A social history of the proposed guardian, including screening for criminal records and prior referrals for child abuse or neglect.

(2) A social history of the minor, including an assessment of any

identified developmental, emotional, psychological, or educational needs, and the capability of the proposed guardian to meet those needs.

(3) The relationship of the minor to the proposed guardian, the duration and character of the relationship, the motivation for seeking guardianship rather than adoption, the proposed guardian's long-term commitment to provide a stable and permanent home for the minor, and a statement from the minor concerning the proposed guardianship.

(4) The plan, if any, for the natural parents for continued involvement with the minor.

(5) The proposed guardian's understanding of the legal and financial rights and responsibilities of guardianship.

The report shall be read and considered by the court prior to ruling on the petition for guardianship, and this shall be reflected in the minutes of the court. The person preparing the report may be called and examined by any party to the proceeding.

(f) Physical custody of a minor by his or her parents or guardians for insubstantial periods during the 12-month period prior to a permanency planning hearing shall not serve to interrupt the running of those periods.

(g) Notwithstanding any other provision of law, the application of any person who, as a foster parent, including relative caretakers, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the foster parent and removal from the foster parent would be seriously detrimental to the child's well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

(h) Subsequent permanency planning hearings need not be held if (1) the child has been freed for adoption and placed in the adoptive home identified in the previous permanency planning hearing and is awaiting finalization of the adoption or (2) the child is the ward of a guardian.

(i) This section applies to minors adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360 prior to January 1, 1989.

SEC. 47. Section 366.26 is added to the Welfare and Institutions Code, to read:

366.26. (a) This section applies to minors who are adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360 on or after January 1, 1989. The standards specified herein are the exclusive standards for conducting these hearings; Section 4600 of the Civil Code is not applicable to these proceedings.

For minors who are adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360, this section and Section 7017 of the Civil Code specify the exclusive procedures, after January 1, 1990, for permanently terminating parental rights with regard to, or establishing legal guardianship of, the minor while the minor is a dependent child of the juvenile court.

(b) At the hearing, which shall be held in juvenile court for all minors who are dependents of the juvenile court, the court shall review the report as specified in Section 361.5 or 366.21 and shall do one of the following:

(1) Permanently sever the parent or parents' rights and order that the child be placed for adoption.

(2) Without permanently terminating parental rights, order that a minor be placed in the legal guardianship of a person, or persons, other than the minor's parents.

(3) Order that the minor be placed in long-term foster care, subject to the regular review of the juvenile court.

In choosing among the above alternatives the court shall proceed pursuant to subdivision (c).

(c) At the hearing the court shall proceed pursuant to one of the following procedures:

(1) It shall terminate parental rights if it determines by clear and convincing evidence that it is likely that the minor will be adopted. The findings pursuant to subdivision (b) of Section 361.5 that reunification services shall not be offered, or the findings pursuant to subdivision (e) of Section 366.21 that the whereabouts of a parent have been unknown for six months or that the parent has failed to visit or contact the child for six months or that the parent has been convicted of a felony indicating parental unfitness, or pursuant to paragraph (2) of subdivision (g) of Section 366.21 or subdivision (a) of Section 366.22 that a minor cannot or should not be returned to his or her parent or guardian, are a sufficient basis for termination of parental rights unless the court finds that termination would be detrimental to the minor due to one of the following circumstances:

(A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing the relationship.

(B) A minor 10 years of age or older objects to termination of parental rights.

(C) The child is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent finding the child a permanent family placement if the parents cannot resume custody when residential care is no longer needed.

(D) The minor is living with a relative or foster parent who is unable or unwilling to adopt the minor because of exceptional circumstances, which do not include an unwillingness to accept legal responsibility for the minor, but who is willing and capable of providing the minor with a stable and permanent environment and

the removal of the minor from the physical custody of his or her relative or foster parent would be detrimental to the emotional well-being of the minor.

(2) If the court finds that adoption of the minor or termination of parental rights is not in the interests of the minor, or that one of the conditions in subparagraph (A), (B), (C), or (D) of paragraph (1) applies, the court shall either order that the present caretakers or other appropriate persons shall become legal guardians of the minor or order that the minor remain in long-term foster care. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the child and if a suitable guardian can be found. When the minor is living with a relative or a foster parent who is willing and capable of providing a stable and permanent environment, but not willing to become a legal guardian, the minor shall not be removed from the home if the court finds the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the relative caretaker or foster parents.

(3) If the court finds that the child should not be placed for adoption and that legal guardianship shall not be established and that there are no suitable foster parents except exclusive-use homes available to provide the minor with a stable and permanent environment, the court may order the care, custody, and control of the minor transferred from the county welfare department or probation department to a licensed foster family agency. The court shall consider the written recommendation of the county welfare director or chief probation officer regarding the suitablility of such a transfer. The transfer shall be subject to further court orders.

The licensed foster family agency shall place the minor in a suitable licensed or exclusive-use home which has been certified by the agency as meeting licensing standards. The licensed foster family agency shall be responsible for supporting the minor and for providing appropriate services to the minor, including those services ordered by the court. Responsibility for the support of the minor shall not, in and of itself, create liability on the part of the foster family agency to third persons injured by the minor. Those minors whose care, custody, and control are transferred to a foster family agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

(d) The proceeding for the appointment of a guardian for a minor who is a dependent child of the juvenile court shall be in the juvenile court. The court shall receive into evidence a report and recommendation concerning the proposed guardianship. The report shall include, but not be limited to, a discussion of all of the following:

(1) A social history of the proposed guardian, including screening for criminal records and prior referrals for child abuse or neglect.

(2) A social history of the minor, including an assessment of any identified developmental, emotional, psychological, or educational

needs, and the capability of the proposed guardian to meet those needs.

(3) The relationship of the minor to the proposed guardian, the duration and character of the relationship, the motivation for seeking guardianship rather than adoption, the proposed guardian's long-term commitment to provide a stable and permanent home for the minor, and a statement from the minor concerning the proposed guardianship.

(4) The plan, if any, for the natural parents for continued involvement with the minor.

(5) The proposed guardian's understanding of the legal and financial rights and responsibilities of guardianship.

The report shall be read and considered by the court prior to ruling on the petition for guardianship, and this shall be reflected in the minutes of the court. The person preparing the report may be called and examined by any party to the proceeding.

(e) At the beginning of any proceeding pursuant to this section, if the minor or the parents are not being represented by previously retained or appointed counsel, the court shall proceed as follows:

(1) The court shall consider whether the interests of the minor require the appointment of counsel. If the court finds that the interests of the minor do require such protection, the court shall appoint counsel to represent the minor. If the court finds that the interests of the minor require the representation of counsel, counsel shall be appointed whether or not the minor is able to afford counsel. The minor shall not be present in court unless the minor so requests or the court so orders.

(2) If a parent appears without counsel and is unable to afford counsel, the court shall appoint counsel for the parent, unless such representation is knowingly and intelligently waived. The same counsel shall not be appointed to represent both the minor and his or her parent. The public defender or private counsel may be appointed as counsel for the parent.

(3) Private counsel appointed under this section shall receive a reasonable sum for compensation and expenses, the amount of which shall be determined by the court. The amount shall be paid by the real parties in interest, other than the minor, in such proportions as the court deems just. However, if the court finds that any of the real parties in interest are unable to afford counsel, the amount shall be paid out of the general fund of the county.

(f) The court may continue the proceeding for not to exceed 30 days as necessary to appoint counsel, and to enable counsel to become acquainted with the case.

(g) At all termination proceedings, the court shall consider the wishes of the child and shall act in the best interests of the child.

The testimony of the minor may be taken in chambers and outside the presence of the minor's parent or parents if the minor's parent or parents are represented by counsel, the counsel is present, and any of the following circumstances exist:

(1) The court determines that testimony in chambers is necessary to ensure truthful testimony.

(2) The minor is likely to be intimidated by a formal courtroom setting.

(3) The minor is afraid to testify in front of his or her parent or parents.

After testimony in chambers, the parent or parents of the minor may elect to have the court reporter read back the testimony or have the testimony summarized by counsel for the parent or parents.

The testimony of a minor also may be taken in chambers and outside the presence of the guardian or guardians of a minor under the circumstances specified in this subdivision.

(h) Any order of the court permanently terminating parental rights under this section shall be conclusive and binding upon the minor person, upon the parent or parents and upon all other persons who have been served with citation by publication or otherwise as provided in this chapter. After making such an order, the court shall have no power to set aside, change, or modify it, but nothing in this section shall be construed to limit the right to appeal the order.

(i) If the court, by order or judgment declared the minor free from the custody and control of both parents, or one parent if the other no longer has custody and control, the court shall at the same time order the minor referred to a licensed county adoption agency for adoptive placement by the agency. However, no petition for adoption may be heard until the appellate rights of the natural parents have been exhausted. The licensed county adoption agency shall be responsible for the care and supervision of the minor and shall be entitled to the exclusive care and control of the minor at all times until a petition for adoption is granted.

(j) Notwithstanding any other provision of law, the application of any person who, as a relative caretaker or foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the relative caretaker or foster parent and removal from the relative caretaker or foster parent would be seriously detrimental to the child's well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

SEC. 48. Section 366.3 of the Welfare and Institutions Code is repealed.

SEC. 49. Section 366.3 is added to the Welfare and Institutions Code, to read:

366.3. (a) If a juvenile court orders a permanent plan of adoption or legal guardianship pursuant to Section 366.25 or 366.26, the court shall retain jurisdiction over the minor until the minor is adopted or

the legal guardianship is established. The status of the minor shall be reviewed every six months to ensure that the adoption or guardianship is completed as expeditiously as possible. When the adoption of the minor has been granted, the court shall terminate its jurisdiction over the minor. The court may continue jurisdiction following the establishment of a legal guardianship, if continued jurisdiction is in the interests of the minor. Following a termination of parental rights the parent or parents shall not be a party to, or receive notice of, any subsequent proceedings regarding the minor.

(b) If the court has dismissed jurisdiction following the establishment of a legal guardianship and the legal guardianship is subsequently revoked or otherwise terminated, the county department of social services or welfare department shall notify the juvenile court of this fact. The court may vacate its previous order dismissing jurisdiction over the minor.

Notwithstanding Section 1601 of the Probate Code, the proceedings to terminate a guardianship which has been granted pursuant to Section 366.25 or 366.26 shall be held in the juvenile court, unless the termination is due to the emancipation or adoption of the minor. If the petition to terminate guardianship is granted, the juvenile court may resume jurisdiction over the minor, and may order the county department of social services or welfare department to develop a new permanent plan, which shall be presented to the court within 60 days of the termination.

Unless the parental rights of the child's parent or parents have been terminated, they shall be notified that the guardianship has been revoked or terminated and shall be entitled to participate in the new permanency planning hearing. The court shall try to place the minor in another permanent placement. At the hearing, the parents may be considered as custodians but the minor shall not be returned to the parent or parents unless they prove, by a preponderance of the evidence, that reunification is the best alternative for the minor. The court may, if it is in the interests of the minor, order that reunification services again be provided to the parent or parents.

(c) If the minor is in a placement other than a preadoptive home or the home of a legal guardian and jurisdiction has not been dismissed, the status of the minor shall be reviewed every six months. This review may be conducted by the court or an appropriate local agency; the court shall conduct the review upon the request of the minor's parents or guardian or of the minor and shall conduct the review 18 months after the hearing held pursuant to Section 366.26 and every 18 months thereafter. The reviewing body shall inquire about the progress being made to provide a permanent home for the minor and shall determine the appropriateness of the placement, the continuing appropriateness and extent of compliance with the permanent plan for the child, the extent of compliance with the case plan, and the adequacy of services provided to the child.

Each licensed foster family agency shall submit reports for each

minor in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the minor's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the minor.

Unless their parental rights have been permanently terminated, the parent or parents of the minor are entitled to receive notice of, and participate in, those hearings. It shall be presumed that continued care is in the interests of the minor, unless the parent or parents prove, by a preponderance of the evidence, that further efforts at reunification are the best alternative for the minor. In those cases, the court may order that further reunification services be provided to the parent or parents for a period not to exceed six months.

SEC. 50. Section 390 of the Welfare and Institutions Code is amended to read:

390. A judge of the juvenile court in which a petition was filed, at any time before the minor reaches the age of 21 years, may dismiss the petition or may set aside the findings and dismiss the petition if the court finds that the interests of justice and the welfare of the minor require the dismissal, and that the parent or guardian of the minor is not in need of treatment or rehabilitation.

SEC. 51. Sections 3, 4, 6, 12, 13, 37, 40, 43, 44, 45, 47, 48, and 49 of this act shall be operative January 1, 1989.

SEC. 52. Section 4.5 of this act shall be operative January 1, 1990.

SEC. 53. Sections 20 and 21 of this act shall be operative January 1, 1989, and only upon the enactment and effectiveness on or before that date of Senate Bill 203 of the 1987–88 Regular Session or any other statute which provides funding for trial court operations, and defines "court operations" to include the services of court-appointed counsel.

SEC. 54. Section 23 of this act shall be operative only until the operative date of Sections 20 and 21 of this act and on that date is repealed.

SEC. 55. The Senate Select Committee on Children and Youth shall conduct a hearing on the implementation of this act and its effectiveness in ensuring protection for children and their families who are at risk of abuse or neglect. The hearing shall be held prior to January 1, 1991.

SEC. 56. The Legislative Analyst shall report to the Legislature on the effect of this act no later than January 1, 1992.

SEC. 57. The Health and Welfare Agency shall review the effect of this act on minors adjudged dependent children of the juvenile court, including any minors presently eligible for such adjudication who will not be eligible for adjudication after January 1, 1990. No later than January 1, 1989, the Health and Welfare Agency shall prepare recommendations for a new program to be implemented by January 1, 1990, to meet the needs of minors presently eligible for juvenile court adjudication who will not be eligible for adjudication on or after January 1, 1990, including appropriate funding sources

and service delivery systems.

SEC. 58. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1486

An act to add Chapter 13 (commencing with Section 52950) to Part 28 of the Education Code of, the Government Code, relating to science and technology.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Chapter 13 (commencing with Section 52950) is added to Part 28 of the Education Code, to read:

CHAPTER 13. SCIENCE AND TECHNOLOGY EDUCATION IMPROVEMENT PROGRAMS

Article 1. Legislative Findings and Declarations, and Statewide Goals

52950. (a) The Legislature finds and declares that improved science education in elementary and secondary schools contributes to improvements in student performance. The Legislature further finds that the California Writing Project and the California Mathematics Project are exemplary training programs which were established to improve student competence in writing and mathematics through effective in-service education and training programs for teachers in these subject areas. The Legislature recognizes that the California writing and math projects provide effective models which could be utilized in providing staff development for teachers in science.

(b) It is the intent of the Legislature that the Regents of the University of California consider establishing the California Science Project, to be administered jointly by the Regents of the University of California and the Trustees of the California State University in cooperation with the State Department of Education. The purpose of this project shall be to provide in-service education to elementary

and secondary teachers in public schools.

It is also the intent of the Legislature that projects be distributed throughout the state so that elementary and secondary school personnel located in rural, urban, and suburban areas may benefit from the in-service education opportunities. It is further the intent of the Legislature that participating school districts, colleges, and universities coordinate these projects with staff development programs and activities currently administered by the State Department of Education, including, but not limited to, teacher education and computer centers established in the same geographic area. It is further the intent of the Legislature that the scientists in the community be contacted in order to determine their interest in participating in the projects.

52951. The Legislature finds and declares as follows:

(a) California is a national and international leader in scientific and technological development. California employs 45 percent of the nation's computer specialists and 21 percent of its engineers. The economic growth of California and the nation will depend in a large part upon its ability to remain competitive with other states and with foreign nations. Maintaining our preeminence will be dependent upon persons who have a solid foundation in science.

(b) There is growing concern about science illiteracy within the state's adult population. A National Science Foundation Report shows that less than half of all high school juniors and one-third of high school seniors take a science course. As a result, American high school students receive only one-half to one-third the exposure to science as their counterparts in other developed countries, such as Japan, West Germany, East Germany, and the Soviet Union.

(c) California has an insufficient number of teachers trained in science and mathematics. There were 1,400 positions filled by teachers not trained in science or mathematics in 1985, and there is a projected shortage of 2,000 to 2,500 positions being filled by teachers not trained in science and mathematics in 1986.

(d) Due to the higher entry level salaries provided by the private sector for college graduates trained in science and mathematics, the growing shortage of qualified science and mathematics teachers will continue.

(e) There are exemplary programs in California that upgrade the training of science teachers and train science teachers.

(f) Complex problems must be overcome if science education is to advance students to a level of competence appropriate for an increasingly technological society. The decline in science achievement of students in schools, colleges, and universities in California affects all students, but is particularly acute for women students, minority students, and students from lower income groups. The problems related to this situation include, but are not limited to, all of the following:

(1) A lack of understanding of the fundamental principles of science and their implications for everyday life.

(2) Inadequate mastery of knowledge of science by students and many teachers, resulting in poor comprehension of college coursework and high attrition rates for those students who have these deficiencies.

(3) A tendency among girls and young women to avoid taking science courses in high school, which limits their choice of educational options, and screens them out of future careers in science, engineering, and other science-related professions.

(4) Lack of science instruction at the elementary school level to enable all students, including female, minority, and low-income students, to develop skills and attitudes which will enable and encourage them to pursue science successfully in later grades.

(5) A critical shortage of qualified teachers, with significant numbers of science teachers leaving the classroom for nonteaching jobs, and few students training to take their places.

(6) Lack of teachers' training in the use of laboratory equipment and procedures, as well as the lack of laboratory-based facilities in schools, thereby reducing the opportunity for students to receive "hands-on" science instruction.

(7) Staffing of more than 25 percent of science classes by teachers not certified to teach science.

(g) While some colleges and universities are improving courses in the teaching of science, this will not fully address the problem, since the number of new teacher candidates is relatively small. Therefore, the Legislature recognizes the need to assist existing teachers in gaining the knowledge necessary to improve science education for all students.

(h) The science problem is shared by all segments and levels of California education, and the problem can best be addressed by cooperatively planned and funded efforts.

(i) Appropriate models for cooperative, intersegmental approaches to solving the science problem should address the findings of state and national science associations, including, but not limited to, the National Science Foundation and National Association of Science Teachers. The comprehensive approach will give special attention to providing in-service training of classroom teachers, defining more clearly those standards of science knowledge required at each school level, and developing curricula and instructional strategies to meet these standards. Whenever possible, existing resources shall be pooled to support this comprehensive program. Models for the program may include the California Writing Project; the California Mathematics Project; the EQUALS Project; the MESA Project; the University of California at Irvine's Summer Science Institute; the Lawrence Hall of Science's Programs for Schools; and the Lawrence Livermore Laboratory's Science Education Center, Summer Science Institute, and Lesson In-service Science Workshop for Elementary and Middle School Teachers.

Article 2. California Science Project

52955. With funds appropriated therefor, the University of California, upon approval by the regents, shall establish a cooperative endeavor entitled the California Science Project, to be administered jointly with the Trustees of the California State University in cooperation with the State Department of Education. Science projects shall be distributed throughout the state so that public elementary, secondary, and postsecondary school personnel located in rural, urban, and suburban areas may avail themselves of science education. "Project," as used in this chapter, means the California Science Project.

52956. The project shall establish an advisory committee to recommend proposals to be funded and criteria for project evaluation. The advisory committee shall evaluate the progress of the project and recommend appropriate changes.

52957. The advisory committee shall include:

(a) One representative selected by the California Postsecondary Education Commission.

(b) Two representatives selected by the President of the University of California, one of whom has the responsibility for teaching science.

(c) Two representatives selected by the Chancellor of the California State University, one of whom has the responsibility for teaching science.

(d) Two representatives selected by the Chancellor of the California Community Colleges, one of whom has the responsibility for teaching science.

(e) Four public school classroom teachers of science, and one additional representative, selected by the Superintendent of Public Instruction.

(f) One teacher of science plus a representative selected by the Association of Independent California Colleges and Universities.

(g) One representative of business and industry selected by the Industry Education Council of California.

(h) One representative of California labor, selected by the California branch of the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO).

(i) One representative of the National Science Supervisors Association.

(j) One representative of a national laboratory, selected by the Regents of the University of California.

52958. The project shall establish criteria for approval of science projects. These criteria shall include, but not be limited to, the extent to which:

(a) The science project addresses the need to integrate existing standards of science competence in the curriculum at each school level.

(b) The science project establishes clear and informed

approaches to the needs of women and minorities for continuing with those science courses required to enhance future career options.

(c) The science project is designed to expand the base of scientific knowledge and the repertoire of teaching techniques of participating teachers and their colleagues in science teaching, and the scientific knowledge of students attending the classes they attend.

(d) Neighboring institutions have worked collaboratively to develop a proposal which clearly indicates their intention to continue to work cooperatively through the duration of the project.

(e) Participating districts, colleges, universities, businesses, federal laboratories, and individual scientists intend to provide financial and personnel support for the science project.

(f) Selection of participating teachers will create school-based or district-based teams of leaders for improvement of science education at all grade levels.

(g) Participating districts, colleges, universities, and businesses intend to use the expertise of participating teachers for leadership among their teaching colleagues.

(h) The science project provides continuing science education to teachers in the public schools.

(i) Scientists in both the public and private sector are recruited to enhance the science project by providing facilities or personnel support.

52959. Proposals for science projects which meet the criteria specified in Section 52958 shall be submitted to the advisory committee for review and recommendation. The advisory committee shall establish procedures to assure that individuals reviewing a specific proposal do not submit the proposals for a science project. The Regents of the University of California shall provide funding to projects which, as a group, provide a comprehensive approach to solving the problems identified in Section 52951.

Agencies eligible to submit a proposal for a project shall include, but are not limited to, school districts, county superintendents of schools, colleges, universities, and national laboratories.

52960. The policy board of each teacher education and computer center established pursuant to Section 44680.09 shall have the opportunity to review and comment on any initial application submitted by a science project applicant located within the geographic region of the center.

52961. The Educational Technology Committee and the State Board of Education shall give careful consideration to funding proposals for classroom application utilizing computers, videos, and other educational technology which would enhance the project.

52962. The advisory committee shall develop criteria for evaluating each project. The criteria shall include at least the following elements:

(a) The change in science knowledge and pedagogical techniques for teaching science of participating teachers served by the local project.

(b) Participants' attitudes towards the effectiveness of the local project.

(c) Changes in classroom behavior and perceived in-class teaching effectiveness.

(d) Participants' contribution to ongoing teacher retraining and in-service programs.

(e) Any change in the students' knowledge of science due to their teacher's participation in the science project.

52963. The California Postsecondary Education Commission shall provide the following information to the Governor, Superintendent of Public Instruction, and the Legislature:

(a) A summary of the local project evaluations and an assessment of the extent of program implementation and progress toward achieving project goals. The summary shall be submitted on or before January 1, 1989.

(b) An evaluation of the project's effectiveness and recommendations for legislative action regarding the project. The evaluation shall be submitted on or before January 1, 1991.

52964. (a) The executive director of the project and the advisory committee shall secure the maximum amount of funding available from the federal government, universities and colleges, school districts, county boards of education, the State Department of Education, and the private sector. The funding may be provided through in-kind contributions.

(b) To the extent possible, training provided to teachers shall be eligible for credit through the University of California or the California State University.

52965. Articles 2 (commencing with Section 52952) and 3 (commencing with Section 52954) shall not apply to the University of California unless the regents, by resolution, make those provisions applicable.

SEC. 2. It is the intent of the Legislature that funding for purposes of the California Science Project be provided in the annual Budget Act and the provisions of Article 2 (commencing with Section 52955) of Chapter 13 of Part 28 of the Education Code, which require a General Fund appropriation shall not be operative until the time a future statute appropriates funding for the California Science Project.

CHAPTER 1487

An act to amend Sections 1596.792 and 1596.807 of the Health and Safety Code, relating to child day care.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 1596.792 of the Health and Safety Code is amended to read:

1596.792. This chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30) do not apply to any of the following:

(a) Any health facilities, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any community care facility, as defined by Section 1502.

(d) Any family day care home providing care for the children of only one family in addition to the operator's own children.

(e) Any cooperative arrangement between parents for the care of their children where no payment is involved and the arrangement meets all of the following conditions:

(1) In a cooperative arrangement, parents shall combine their efforts so that each parent, or set of parents, rotates as the responsible care-giver with respect to all the children in the cooperative.

(2) Any person caring for children shall be a parent, legal guardian, stepparent, grandparent, aunt, uncle, or adult sibling of at least one of the children in the cooperative.

(3) There can be no payment of money or receipt of in-kind income in exchange for the provision of care. This does not prohibit in-kind contributions of snacks, games, toys, blankets for napping, pillows and other materials parents deem appropriate for their children. It is not the intent of this paragraph to prohibit payment for outside activities, the amount of which may not exceed the actual cost of the activity.

(4) Care may only be provided in the home of a parent, legal guardian, stepparent, grandparent, aunt, uncle, or adult sibling of at least one of the children in the cooperative.

(5) No more than 12 children are receiving care in the same home at the same time.

(f) Any arrangement for the receiving and care of children by a relative.

(g) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county which meets either of the following criteria:

(1) The program is provided for children over the age of four

years and nine months and is in operation for either of the following periods:

(A) For under 13 hours per week.

(B) For more than 12 hours per week and is for 12 weeks or less per year in duration.

(2) The program is provided to children under the age of four years and nine months with sessions which run 12 hours per week or less and are 12 weeks or less in duration.

(h) Extended day care programs operated by public or private schools.

SEC. 2. Section 1596.807 of the Health and Safety Code is amended to read:

1596.807. The State Department of Social Services, shall allow an extended day care program, whether or not exempt from licensure pursuant to subdivision (h) of Section 1596.792, to serve additional children 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.

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 1488

An act to amend Section 11772 and 11987.5 of, to add a chapter heading immediately preceding Section 11750 of, and to add and repeal Chapter 3 (commencing with Section 11758.10) and Chapter 4 (commencing with Section 11759) of Part 1 of Division 10.5 of, the Health and Safety Code, relating to alcohol and drug programs, and making an appropriation therefor.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987]

I am deleting the $130,000 appropriation contained in Section 6 of Senate Bill No 1528

While I agree with the concept of funding this worthy drug prevention effort, it is inappropriate for the Legislature to mandate specific expenditures of discretionary funds. The Department of Alcohol and Drug Programs has existing authority to allocate those funds.

Therefore, I am asking the Department to fund this program out of existing resources

With this deletion, I approve Senate Bill No. 1528.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. A chapter heading is added immediately preceding Section 11750 of the Health and Safety Code, to read:

CHAPTER 1. GENERAL PROVISIONS

SEC. 2. Chapter 3 (commencing with Section 11758.10) is added to Part 1 of Division 10.5 of the Health and Safety Code, to read:

CHAPTER 3. NEGOTIATED NET AMOUNT CONTRACTS PILOT PROJECT

11758.10. (a) Notwithstanding any other provision of law, the department shall conduct a pilot project in accordance with this chapter with any or all of the following counties requesting to participate in the pilot project: Butte County, Merced County, and Stanislaus County, for fiscal years 1988–89 to 1990–91, inclusive; and Fresno County, Riverside County, San Joaquin County, and Tulare County, for fiscal years 1989–90 and 1990–91.

(b) The department shall report by January 1, 1991, to the chairman of the Senate Health and Human Services Committee, the chairman of the Assembly Health Committee, and the chairman of the Assembly Human Services Committee as to whether the use of negotiated net amount contracts under this pilot project result in improved levels of efficiency, local discretion and flexibility, reduced local administrative overhead and costs, and increased program funds for services, as well as maintenance of quality and access within the counties requesting to participate in the pilot project.

11758.11. (a) The department shall negotiate net amount contracts with a participating county in lieu of any grant, reporting, or reimbursement procedure for the cost of services specified in the county alcohol program plan or the county drug program plan, or both, under this division.

(b) An allocation of funds for the purpose of establishing net negotiated amount contracts shall be made by the department to each pilot project county in accordance with Section 11814 for county alcohol programs, and Section 11983 for county drug programs.

11758.12. (a) A negotiated net amount, for the purposes of this chapter, shall be determined by calculating the total budget for services less the amount of projected revenue. These net amounts for alcohol or drug services, or both, shall be negotiated for each year of the pilot project between the participating county and the department and shall be disbursed to participating counties on a monthly basis.

(b) No contracts shall become final until approved by both the participating county and the State Department of Alcohol and Drug

Programs. If approval is received after the commencement date of the contract, the approval shall be retroactive to the commencement date. Should a contract not be approved by the department and the county within 90 days of issuance of the final allocation to the county by the department, the county shall be compensated for work performed upon submission by the county of an alcohol program plan or drug program plan or both in conformance with existing requirements for submission of the plan.

(c) Once the negotiated net amount is approved by the department, all participating government funding sources, except for the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9), shall be bound to that amount as the cost of providing alcohol or drug services, or both, as described in the contract. Where the State Department of Health Services promulgates regulations for determining reimbursement of county drug program plan services allowable under the Medi-Cal program, those regulations shall be controlling only as to the rates for reimbursement of these services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries.

(d) Participating counties shall report to the department any information required by the department in accordance with existing procedures established by the department.

(e) Absent a finding of fraud, abuse, or failure to achieve contract objectives, no restrictions, other than any contained in the contract, shall be placed upon a county's expenditure or retention of funds received pursuant to this article.

11758.13. Provisions of the net amount contract shall meet all of the following criteria:

(a) Assurance of an adequate quality and quantity of services.

(b) Provision for access to services by persons residing within the contracting county.

(c) Access by the department to financial and service records for the purpose of verifying conformance to provisions of the contract and the establishment of data necessary for subsequent contract negotiation.

(d) Counties that propose to negotiate net amount contracts with the State Department of Alcohol and Drug Programs in lieu of the drug or alcohol annual plan shall inform the Drug and Alcohol Advisory Board of its intentions as follows:

(1) Prior to opening of negotiations, the local program administrator shall submit to the advisory board an outline of issues to be negotiated and the intended agreement on each issue.

(2) At each regular meeting of the advisory board during the period of negotiations, the local program administrator shall inform the advisory board of progress on each issue and shall request the advisory board's advice on how to further proceed on the negotiations.

(e) Assurance that all funds paid out by the state under this chapter shall be used exclusively by the participating county for the

purposes for which it was paid out.

(f) The participating county shall bear the financial risk in providing any alcohol or drug services, or both, to the population described and enumerated in the approved contract within the net amount.

(g) Negotiated net amount contracts shall not preclude the county from subcontracting to purchase all or part of the delivery of alcohol or drug services, or both, from noncounty providers.

(h) Funds for negotiated net amount contracts in those counties with a population under 200,000 may be adjusted between alcohol programs and drug programs as negotiated by the State Department of Alcohol and Drug Programs and the county in their contracts.

(i) Each county which participates as part of the negotiated net contracts process between the county and the State Department of Alcohol and Drug Programs shall adhere to Section 11840 requiring matching funds by the county for programs and services under this section.

11758.14. Negotiated net amount contracts under this chapter shall be exempt from the requirements contained in the Public Contract Code and the state administrative manual, and shall be exempt from approval by the Department of General Services.

11758.15. This chapter shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Chapter 4 (commencing with Section 11759) is added to Part 1 of Division 10.5 of the Health and Safety Code, to read:

CHAPTER 4. SKILLS FOR ADOLESCENCE PROGRAM

11759. The State Department of Alcohol and Drug Programs shall provide funding to the Whittier Host Lions Club to conduct a three-year drug prevention pilot program, to be known as the Skills for Adolescence Program, or the "Quest" program. The program may, with the consent of the school district, be implemented in all fifth, sixth, and seventh grade classes in both the Whittier City School District and the East Whittier School District. The program shall train teachers in drug prevention education and shall provide instructional materials to students on drug prevention.

11759.1. There is hereby created a six-member commission to evaluate the pilot project under this chapter, two of whom shall be appointed by the Whittier Host Lions Club, two of whom shall be appointed by the City Council of Whittier, one of whom shall be appointed by the Whittier City School District, and one of whom shall be appointed by the East Whittier School District. The commission shall, at the end of the three-year pilot project, submit its evaluation report to the department.

11759.2. This chapter shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute,

which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 11772 of the Health and Safety Code is amended to read:

11772. (a) The department may enter into contracts with public or private agencies or make grants necessary or incidental to the performance of its duties and the execution of its powers, including contracts with public or private agencies and individuals, to pay them in advance or reimburse them for services provided to problem drinkers and their families and communities. The Legislature finds and declares that many of the activities required of the department which are necessary to carry out its duties under this part are unique to alcohol services and programs. Therefore, the Legislature directs the department to contract with public or private agencies or individuals to perform its duties whenever that expertise is available and appropriate to utilize.

(b) Notwithstanding any other provision of this part, the department may not contract directly for the provision of alcohol services except as follows:

(1) To provide referral and monitoring services for recipients of Supplemental Security Income in those counties that choose not to provide these services.

(2) For demonstration programs of limited duration and scope which, wherever possible, shall be administered through the counties and which are specifically authorized and funded by the Budget Act or other statutes.

(3) For pilot projects under Chapter 3 (commencing with Section 11758.10).

(4) To provide supportive services, such as technical assistance, on a statewide basis, or management and evaluation studies to help assure more effective implementation of this part.

(c) The Legislature strongly encourages all counties to apply for funds under this part because of the seriousness of alcohol problems in California and the necessity for affirmative governmental involvement to help alleviate alcohol problems. However, the Legislature has chosen not to mandate that counties provide those services and programs. In the absence of local community control of the services and programs, the state shall not intervene to operate directly or through contract services and programs which the elected county board of supervisors has chosen not to provide to its constituents.

SEC. 5. Section 11987.5 of the Health and Safety Code is amended to read:

11987.5. (a) Except as provided in Chapter 3 (commencing with Section 11758.10), 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. 6. There is hereby appropriated the sum of one hundred thirty thousand dollars ($130,000) from the Governor's discretionary funds received by the State Department of Alcohol and Drug Programs under the federal Drug Free Schools and Communities Act of 1986 (Public Law 99-570), to the State Department of Alcohol and Drug Programs for implementation of Chapter 4 (commencing with Section 11759) of Part 1 of Division 10.5 of the Health and Safety

Code, as contained in Section 3 of this act. Funds appropriated pursuant to this section shall be allocated to the Whittier Host Lions Club for expenditure as follows:

(a) One hundred thousand dollars ($100,000) to be used for startup costs. Startup costs shall include the cost of training 133 teachers and purchasing 3,990 textbooks.

(b) Fifteen thousand dollars ($15,000) per year to be used for program maintenance costs during the second and third years of the program. Maintenance costs shall include training new teachers and purchasing new textbooks.

(c) No funds appropriated pursuant to this section shall be used for staff or administrative purposes.

CHAPTER 1489

An act to add and repeal Section 727.5 of the Welfare and Institutions Code, relating to juvenile court law, and making an appropriation therefor.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

I am deleting the $150,000 appropriation and the intent language contained in Section 3 of Senate Bill No. 1582.

This bill would authorize the establishment of a nonresidential treatment program with a marine environment component for juvenile offenders in Monterey County on a 2-year pilot basis. This bill would appropriate $150,000 from the General Fund to the Department of Youth Authority for allocation to Monterey County for this purpose.

The demands placed on budget resources require all of us to set priorities. The budget enacted in July, 1987 appropriated nearly $41 billion in state funds. This amount is more than adequate to provide the necessary essential services provided for by State Government. It is not necessary to put additional pressure on taxpayer funds for programs that fall beyond the priorities currently provided.

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties.

I would, however, consider funding the provisions of this bill during the budget process for Fiscal Year 1988–89. It is appropriate to review the relative merits of this program in comparison to all other funding projects. The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit.

With this deletion, I approve Senate Bill No. 1582.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The Legislature finds that the current process for funding the costs of juvenile court wards in 24-hour residential placement discourages the development of local placement alternatives at the county level. In Monterey County alone the state contribution of 45 percent for the AFDC costs of residential placement amounts to at least three hundred forty thousand dollars ($340,000) annually, for 30 wards, over a full 12-month period. The two-year program authorized by this act, although funded in

advance, will afford savings far in excess of those amounts for that period.

SEC. 2. Section 727.5 is added to the Welfare and Institutions Code, to read:

727.5. (a) It is the intent of the Legislature in authorizing the pilot program authorized by this section to promote the use of cost-effective local alternatives to out-of-home placement, with emphasis on education, supervision, family involvement, skills development, accountability for behavior, restitution to victims of offenses, and productive involvement in the community. It is not its intent to promote programs which emphasize endurance of physical hardship as a rehabilitative approach.

(b) The Department of the Youth Authority shall, if Monterey County consents thereto, allocate funds to Monterey County for establishment of an environmentally based, nonresidential treatment program for persons declared wards of the juvenile court pursuant to Section 602 who have not been removed from parental custody or control and who, but for the existence of that program, would have been placed in a 24-hour residential program. Monterey County may establish, or may contract with a private agency for the provision of, the program. The program shall include, but not be limited to, a marine oriented component. The county may enter into an agreement with Santa Cruz County to provide for the joint participation of juvenile court wards from that county, in such numbers as the counties may agree.

(c) The Department of the Youth Authority shall report to the Legislature no later than September 1, 1989, as to the cost effectiveness of the placements made by the program authorized by this section as opposed to the costs associated with removal of similar wards from the physical custody of their parents or guardians and placement in a community care facility. The project shall be deemed to be successful if it can be shown that participating minors meet all of the following criteria: (1) 70 percent of the minors referred to the program successfully complete the program; (2) 50 percent of the minors who complete the program advance an average of two academic grade levels; and (3) minors who successfully complete the program will, collectively, experience a 30 percent reduction in law enforcement contacts within one year of the termination of their involvement with the program.

(d) This section shall be operative only until January 1, 1990, and as of that date is repealed unless a later enacted statute operative on or before that date extends or deletes that date.

SEC. 3. (a) The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the General Fund to the Department of the Youth Authority for allocation to Monterey County in the 1987–88 fiscal year for the purposes of this act.

(b) The Legislature intends that three hundred thousand dollars ($300,000) shall be appropriated in the 1988–89 Budget Act and that one hundred fifty thousand dollars ($150,000) shall be appropriated

in the 1989–90 Budget Act for continuation of the program established by this act.

(c) The Legislature intends that the costs of this program, following an allowance in 1987–88 for startup, shall be more than offset by savings in residential placement costs.

CHAPTER 1490

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

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

I am reducing the General Fund appropriation contained in Section 1(c) of Assembly Bill No. 432 from $3,583,978.86 to $3,202,471.37 by removing the attorney fees claim for Public Advocates, Inc This claim should be paid from the Agriculture Fund rather than the General Fund.

With this reduction, I approve Assembly Bill No. 432

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The sum of three million eight hundred sixty-nine thousand five hundred eight dollars and thirteen cents ($3,869,508.13) is hereby appropriated to the Secretary of the State Board of Control for the payment of judgments and settlement claims accepted by the State Board of Control.

These funds shall be appropriated in accordance with the following schedule:

(a) Twenty-five thousand four hundred eighty-seven dollars and fifty cents ($25,487.50) from the Federal Trust Fund.

(b) Fifty-four thousand two hundred fifty-two dollars and eighty-two cents ($54,252.82) from the Board of Osteopathic Examiners Contingent Fund.

(c) Three million five hundred eighty-three thousand nine hundred seventy-eight dollars and eighty-six cents ($3,583,978.86) from the General Fund.

(d) Five thousand seven dollars and forty-five cents ($5,007.45) from the Hazardous Substance Clean-Up Bond Fund.

(e) Seven thousand two hundred sixty-three dollars ($7,263) from the Restitution Fund.

(f) One hundred ninety-three thousand five hundred eighteen dollars and fifty cents ($193,518.50) from the Transportation Fund in the Motor Vehicle Account.

SEC. 2. Funds appropriated by this act for payment of attorney's 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 Section 2.00 of the

Budget Act of 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:

In order to pay judgments and settlement claims against the state and end hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 1491

An act to add Article 11 (commencing with Section 32400) to Chapter 3 of Part 19 of the Education Code, relating to immigration, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987]

I am deleting $1,289,000 of the $2,789,000 appropriation contained in Section 13 of Senate Bill 1583. Of this amount, I am reducing $1,000,000 from the allocation for legalization services and $289,000 from the allocation for technical assistance

This bill would require the Superintendent of Public Instruction to develop a test to measure the English and citizenship proficiency of eligible aliens under the Immigration Reform and Control Act (IRCA). In addition, the bill allows the Health and Welfare Agency to contract with various nonprofit organizations to assist aliens applying for residency under IRCA

I fully support aliens becoming lawful residents of California Information from INS suggests, however, that only a small percent of those eligible have been able to file for residency through nonprofit organizations I believe the $1 5 million approved will allow these community organizations to provide help to aliens who might not otherwise take advantage of the Amnesty Program.

With this deletion, I approve Senate Bill No 1583

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Article 11 (commencing with Section 32400) is added to Chapter 3 of Part 19 of the Education Code, to read:

Article 11. Educational Services and the Federal Immigration Reform and Control Act of 1986

32400. (a) The Legislature finds that as many as one million seven hundred thousand illegal aliens could be granted amnesty and would seek permanent residency in California under the provisions of the federal Immigration Reform and Control Act of 1986 (Public Law 99-603). Under the act, eligible aliens would be required to demonstrate an understanding of ordinary English and a knowledge and understanding of the history and government of the United States.

(b) Further, it is the intent of the Legislature to establish a state

test that may be used by eligible aliens to attest to their understanding of English and understanding of the history and government of the United States to meet the requirements of Section 312 of the Immigration and Nationality Act (8 U.S.C. Sec. 1423) and the federal Immigration Reform and Control Act of 1986 (Public Law 99-603).

32401. (a) The Superintendent of Public Instruction, in consultation with the Chancellor of the California Community Colleges, shall develop a test or adopt an existing test, subject to the approval of the United States Attorney General pursuant to the federal Immigration Reform and Control Act of 1986 (Public Law 99-603), to measure whether an eligible alien has a minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States as required under Section 312 of the Immigration and Nationality Act (8 U.S.C. Sec. 1423).

(b) The Governor, the Superintendent of Public Instruction, the Chancellor of the California Community Colleges, the President pro Tempore of the Senate, and the Speaker of the Assembly shall petition the Director of the Immigration and Naturalization Service and the United States Attorney General for approval to use the test referred to in subdivision (a) as one means by which an eligible immigrant may satisfy the requirements under the federal Immigration Reform and Control Act of 1986 (Public Law 99-603).

(c) The Superintendent of Public Instruction shall distribute this test to school districts, county offices of education, and community colleges, upon their request for purposes of administration, to eligible immigrants granted legal status pursuant to Section 245A of the Immigration and Nationality Act, as amended by the Federal Immigration Reform and Control Act of 1986 (Public Law 99-603). Any school district, county office of education, or any other eligible agency which receives federal legalization impact-assistance funds to provide educational services may administer the test for purposes of determining the need of an eligible immigrant applying for legal status for appropriate educational services, and of allowing an eligible immigrant to demonstrate an understanding of ordinary English and a knowledge and understanding of the history and government of the United States. Test results shall be confidential and may not be released without the written consent of the eligible immigrant for any purpose that is not directly related to the provision of educational services. Upon request by an eligible immigrant applying for legal status, test results may be transmitted to the Immigration and Naturalization Service. School districts, county offices of education community colleges, and any other eligible agencies that receive federal funds for this purpose shall administer the test using appropriate test monitor and control procedures and provide for necessary test security measures.

SEC. 2. It is the intent of the Legislature that Section 32401 of the Education Code be funded pursuant to federal funds provided by the

State Legalization Impact-Assistance Grants of the Federal Immigration Reform and Control Act of 1986 (Public Law 99-603).

SEC. 3. The Legislature finds and declares as follows:

(a) The Immigration Reform and Control Act of 1986 (P.L. 99-603) establishes a legalization program for certain immigrants without legal residency status to adjust to lawful temporary resident status and subsequently to permanent resident status.

(b) The success of the legalization program is based on the ability of qualified designated entities of the Immigration and Naturalization Service and other nonprofit community-based immigrant service organizations to perform prescreening and application assistance for immigrants eligible for legalization.

(c) The service capacity of these organizations is estimated to be less than half of what is needed to serve the estimated 1.6 million potentially eligible persons in the state, and many organizations are experiencing an unmanageable increase in clients requesting legalization assistance. These circumstances have led to a backlog in application processing.

(d) Most immigrants eligible for legalization must apply by May 4, 1988, or lose the opportunity to adjust to legal status and thereby lose authorization to continue in their current employment or residency, irrespective of their having lived and worked here for five years or more.

(e) The reduction of the immigrant labor force will impact negatively numerous industries that rely on this workforce and depend upon the legalization program to assure that workers have an opportunity to remain and work in California.

(f) The State of California will not be able to utilize State Legalization Impact-Assistance Grant monies for reimbursement of services to persons who are unable to legalize within the one-year time frame.

(g) It is in the best interest of the people of the State of California to establish a legalization assistance grant program for the purpose of increasing the number of undocumented immigrants adjusting to legal residency pursuant to the Immigration Reform and Control Act of 1986.

SEC. 4. (a) The Secretary of the Health and Welfare Agency may contract with legalization service providers and legalization support centers to increase the number of legalization applications which are submitted to the Immigration and Naturalization Service in this state.

(b) For the purposes of this section, the following definitions shall apply:

(1) "Legalization service provider" means a nonprofit incorporated organization which has demonstrated effectiveness in providing assistance to applicants for adjustment of status under the Immigration Reform and Control Act of 1986.

(2) "Legalization support center" means a nonprofit incorporated organization which has experience in providing

technical assistance in the field of immigration of law or program management, or both, and which is currently providing these services to legalization service providers. These organizations may include "qualified support centers," as defined in Section 6213 of the Business and Professions Code.

(3) "Pre-1982 legalization applicant" means a person applying for temporary residency status under Section 201 of the Immigration Reform and Control of 1986 (Title 8, Section 1255(a) of the United States Code).

(4) "Special Agricultural Worker" means a person applying for temporary residency status under Section 201A of the Immigration Reform and Control Act of 1986 (Title 8, Section 1161 of the United States Code).

SEC. 5. Eligible organizations shall provide evidence that they are tax-exempt organizations incorporated under Title 26, Section 501(c)(3), (4), or (5) of the United States Code and which may include social services agencies, churches, immigrant legal services organizations, and other service organizations.

SEC. 6. Legalization service providers which qualify for funding under this act shall not charge fees that on the average exceed by one hundred dollars ($100) the limits of the Immigration and Naturalization Service for qualified designated entities, and shall have one or more of the following:

(a) Status as a qualified designated entity of the Immigration and Naturalization Service.

(b) An immigration attorney or a Board of Immigration Appeals accredited representative on staff, and have demonstrated experience in processing legalization applications in consultation with immigration attorneys, or accredited representatives, or both, on a regular basis.

SEC. 7. Legalization services may include all of the following:

(a) Outreach, screening, orientation, and counseling regarding the legalization process.

(b) Assistance in securing and assembling required documentation.

(c) Preparation of Immigration and Naturalization Service forms, including translation of documents, photocopying, notarization, fingerprinting, and photographs if provided by the agency.

(d) Referral assistance in securing services necessary to the completion of the application process, such as medical examinations, fingerprinting, or photographs.

(e) Final review of completed applications and submission to the Immigration and Naturalization Service.

SEC. 8. Technical Assistance services may include all of the following:

(a) Materials, advice, and training regarding legal issues and expertise necessary for proper processing and review of applications.

(b) Materials, advice, and training in the use of management information systems designed to accelerate the application process.

(c) Assistance and training in the establishment, restructuring, and streamlining of administrative and program procedures, such as screening and documentation retrieval.

(d) Assistance in the opening of new sites for existing legalization programs.

SEC. 9. No technical assistance funds shall be allocated by the agency for the purpose of providing direct legal services to applicants for temporary residency under the Immigration Reform and Control Act of 1986 (Public Law 99-603).

SEC. 10. (a) Applicant organizations shall provide evidence that they are nonprofit tax-exempt organizations operated for charitable or public purposes.

(b) By December 15, 1987, applicants for funding as legalization service providers under this act shall submit to the Health and Welfare Agency their proposals and requests for funds to increase their total volume of legalization applications. The proposal shall discuss the basis for the proposal and provide supporting documentation demonstrating the additional service capacity that would be created. Specifically, each application shall contain:

(1) A description of the need in the local community for increased services, including the impact on the locality and access to services.

(2) A history of program participation to include the total number of applications already submitted by the organization, by county, per month since May 5, 1987, with a breakdown of pre-1982 applicants and Special Agricultural worker applicants.

(3) The organization's current projections of application capacity, broken down by pre-1982 applicants and Special Agricultural Worker applicants, by month through the end of the application period.

(4) A monthly breakdown of the estimated Special Agricultural Worker applicants and pre-1982 applicants to be assisted in addition to current capacity, stated as performance goals within the contracting period.

(5) The organization's plan for expansion to achieve the additional capacity.

(6) Current and estimated program budgets with descriptions and breakdown of costs, program components, and fee structure, cost per application, staffing patterns and use of funds from other sources.

(7) A description of any technical assistance needs.

(8) A description of the system of accounting and program records designed to demonstrate clearly the number of additional applications filed monthly.

(c) Applicants requesting funding as legalization support centers shall submit the following:

(1) A description of services currently provided by the organization, including current staffing and budget.

(2) A proposal for provision of any of the services outlined in Section 9 of this act.

(3) An itemized budget and listing of costs per unit of service

when applicable, estimated for providing proposed services.

(4) An indication of the geographic service area of the organization and an assessment of services needed in that region.

SEC. 11. (a) The Health and Welfare Agency shall evaluate applications based on the factors outlined in subdivisions (b) and (c) of Section 11 and shall award contracts as applications are submitted.

(b) The Secretary of Health and Welfare Agency shall, in order to ensure that legalization service providers will have adequate funds for the initiation of their contracts, issue a first quarter advance payment in an amount equal to 20 percent of the organization's annual allocation for the contract period. The advance payment shall be sent to the contractor during the first month of the quarter for which the advance is made. The agency may, depending on contract cash-flow needs and adequate performance, provide subsequent advance payments in an amount equal to 20 percent of the organization's annual allocation.

The contractor shall submit monthly invoices to document the number of applications submitted to the Immigration and Naturalization Service and to justify the advance of funds.

(c) Other periodic payment under the contract shall be made only upon the submission of monthly invoices providing the required information, and only when the offset of the advance payment has been liquidated.

(d) (1) Funds not expended by May 5, 1988, as determined by final claims made by contractors submitted by July 31, 1988, shall be reallocated for legalization assistance to Special Agricultural Worker applicants from May 6, 1988, through November 30, 1988.

(2) The agency shall evaluate the need for technical assistance services on the basis of proposals from legalization support centers and the needs described by legalization providers.

The agency may reallocate unobligated funds for legalization services to technical assistance if technical assistance needs exceed project levels. Any unexpended technical assistance funds shall revert to be allocated under legalization services if not obligated by January 1, 1988.

(e) Contracts entered into with legalization service providers for legalization services and legalization support centers for technical assistance shall last for a specified number of months, and in any event not past December 1, 1988.

(f) The agency may partially fund proposals it deems appropriate.

(g) Contractors shall submit to the agency monthly reports stating at a minimum: (1) the number of legalization applicants assisted during the month, broken down by Special Agricultural Worker applicants and pre-1982 applicants, and (2) total expenses for legalization activities during the month.

SEC. 12. (a) Organizations shall not be reimbursed for applications processed prior to the date of the contract. For the purposes of this section, preregistration and initial intake of applicants shall not constitute the processing of an application.

(b) The maximum reimbursement shall be forty dollars ($40) for assistance in the preparation of each individual application.

(c) The agency shall consult with the local Immigration and Naturalization Service legalization offices, in order to determine the acceptance rate of applications submitted by each contracting organizations.

(d) Contractors for legalization funds shall keep a monthly statistical record of the number of applicants, the number of clients assisted, the number of applications completed and submitted to the Immigration and Naturalization Service and other information as required by the Health and Welfare Agency.

(e) All records pertaining to clients shall be made available with the deletion of names and personal identification for review by the agency for audit and performace assessment purposes. These records shall not be released by the agency or any contractor to any third party except in statistical form.

(f) In complying with subdivisions (d) and (e) of this section, contractors shall maintain strict confidentiality of all client records.

SEC. 13 The sum of two million seven hundred eighty-nine thousand dollars ($2,789,000) is hereby appropriated from the General Fund to the Secretary of the Health and Welfare Agency for the purposes of Sections 3 to 13, inclusive, of this act. Of this amount, two million four hundred thousand dollars ($2,400,000) is allocated for the purpose of contracting for legalization services and three hundred eighty-nine thousand dollars ($389,000) for the purposes of provding technical assistance to nonprofit legalization service providers.

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 that a statewide test may be developed to measure the English and citizenship skills of certain immigrants applying for legal status under the federal Immigration Reform and Control Act of 1986 (Public Law 99–603), that immigrants eligible for legalization may have the necessary assistance in time to meet the May 4, 1988, deadline, and that the Legislature may declare its intent with respect to providing educational services and legalization assistance to these immigrants as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 1492

An act to amend Section 1985.3 of the Code of Civil Procedure, and to amend Section 35815 of, and to add Section 35816 to, the Health and Safety Code, relating to housing.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987]

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

SECTION 1. The Legislature hereby makes the following findings and declarations:

(a) Adequate home financing to qualified applicants on reasonable terms and conditions must be provided to all neighborhoods to prevent economic decline.

(b) The Home Mortgage Disclosure Act was enacted by the federal government to require federally regulated lending institutions to disclose their home mortgage lending practices.

(c) Recent deregulation of the banking industry has given rise to the creation of new types of financial institutions in California's home mortgage lending market which are not subject to the requirements of the Home Mortgage Disclosure Act.

(d) It is therefore the intent of the Legislature in enacting this act to provide citizens and public officials of California with sufficient information to enable them to determine whether certain financial institutions are fulfilling their obligations to serve the housing needs of the communities and neighborhoods in which they are located and to assist public officials in developing strategies for revitalizing economically declining neighborhoods.

SEC. 2. Section 1985.3 of the Code of Civil Procedure is amended to read:

1985.3. (a) For purposes of this section, the following definitions apply:

(1) "Personal records" means the original or any copy of books, documents, or other writings pertaining to a consumer and which are maintained by any "witness" which is a physician, pharmacist, pharmacy, hospital, state or national bank, state or federal association (as defined in Section 5102 of the Financial Code), state or federal credit union, trust company, anyone authorized by this state to make or arrange loans that are secured by real property, security brokerage firm, insurance company, underwritten title company, attorney, accountant, institution of the Farm Credit System, as specified in Section 2002 of Title 12 of the United States Code, or telephone corporation which is a public utility, as defined in Section 216 of the Public Utilities Code, or psychotherapist, as defined in Section 1010 of the Evidence Code, or a private or public preschool, elementary school, or secondary school.

(2) "Consumer" means any individual, partnership of five or

fewer persons, association, or trust which has transacted business with, or has used the services of, the witness or for whom the witness has acted as agent or fiduciary.

(3) "Subpoenaing party" means the person or persons causing a subpoena duces tecum to be issued or served in connection with any civil action or proceeding pursuant to this code, but shall not include the state or local agencies described in Section 7465 of the Government Code, or any entity provided for under Article VI of the California Constitution in any proceeding maintained before an adjudicative body of that entity pursuant to the provisions of Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code.

(b) The date specified in a subpoena duces tecum for the production of personal records shall not be less than 15 days from the date the subpoena is issued. Prior to the date called for in the subpoena duces tecum for the production of personal records, the subpoenaing party shall serve or cause to be served on the consumer whose records are being sought a copy of the subpoena duces tecum, of the affidavit supporting the issuance of the subpoena, and of the notice described in subdivision (e). This service shall be made as follows:

(1) To the consumer personally, or at his or her last known address, or in accordance with Chapter 5 (commencing with Section 1010) of Title 14 of Part 3, or, if he or she is a party, to his or her attorney of record. If the consumer is a minor, service shall be made on the minor's parent, guardian, conservator, or similar fiduciary, or if one of them cannot be located with reasonable diligence, then service shall be made on any person having the care or control of the minor or with whom the minor resides or by whom the minor is employed, and on the minor if the minor is at least 12 years of age.

(2) Not less than 10 days prior to the date for production specified in the subpoena duces tecum, plus the additional time provided by Section 1013 if service is by mail.

(3) At least five days prior to service upon the custodian of the records, plus the additional time provided by Section 1013 if service is by mail.

(c) Prior to the production of the records, the subpoenaing party shall do either of the following:

(1) Serve or cause to be served upon the witness a proof of personal service or of service by mail attesting to compliance with subdivision (b).

(2) Furnish the witness a written authorization to release the records signed by the consumer or by his or her attorney of record. The witness may presume that any attorney purporting to sign the authorization on behalf of the consumer acted with the consent of the consumer.

(d) A subpoena duces tecum for the production of personal records shall be served in sufficient time to allow the witness a reasonable time to locate and produce the records or copies thereof.

Except as to records subpoenaed for a criminal proceeding or records subpoenaed during trial, a subpoena duces tecum served upon a witness with records in more than one location shall be served no less than 10 days prior to the date specified for production, unless good cause is shown pursuant to subdivision (h).

(e) Every copy of the subpoena duces tecum and affidavit served on a consumer or his or her attorney in accordance with subdivision (b) shall be accompanied by a notice, in a typeface designed to call attention to the notice, indicating that (1) records about the consumer are being sought from the witness named on the subpoena; (2) if the consumer objects to the witness furnishing the records to the party seeking the records, the consumer must file papers with the court prior to the date specified for production on the subpoena; and (3) if the party who is seeking the records will not agree in writing to cancel or limit the subpoena, an attorney should be consulted about the consumer's interest in protecting his or her rights of privacy. If a notice of taking of deposition is also served, that other notice may be set forth in a single document with the notice required by this subdivision.

(f) A subpoena duces tecum for personal records maintained by a telephone corporation which is a public utility, as defined in Section 216 of the Public Utilities Code, shall not be valid or effective unless it includes a consent to release, signed by the consumer whose records are requested, as required by Section 2891 of the Public Utilities Code.

(g) Any consumer whose personal records are sought by a subpoena duces tecum may, prior to the date for production, bring a motion under Section 1987.1 to quash or modify the subpoena duces tecum. Notice of the bringing of that motion shall be given to the witness prior to production. No witness shall be required to produce personal records after receipt of notice that such a motion has been brought, except upon order of the court in which the action is pending or by agreement of the parties, witnesses, and consumers affected.

(h) Upon good cause shown and provided that the rights of witnesses and consumers are preserved, a subpoenaing party shall be entitled to obtain an order shortening the time for service of a subpoena duces tecum or waiving the requirements of subdivision (b) where due diligence by the subpoenaing party has been shown.

(i) Nothing contained in this section shall be construed to apply to any subpoena duces tecum which does not request the records of any particular consumer or consumers and which requires a custodian of records to delete all information which would in any way identify any consumer whose records are to be produced.

(j) The provisions of this section shall not apply to proceedings conducted under Division 1 (commencing with Section 50), Division 4 (commencing with Section 3200), Division 4.5 (commencing with Section 6100), or Division 4.7 (commencing with Section 6200) of the Labor Code.

(k) Failure to comply with this section shall be sufficient basis for the witness to refuse to produce the personal records sought by a subpoena duces tecum.

SEC. 3. Section 35815 of the Health and Safety Code is amended to read:

35815. (a) The secretary or the secretary's designee shall monitor and investigate the lending patterns and practices of financial institutions for compliance with this part, including the lending patterns and practices for housing accommodations which are not occupied by the owner. If a finding is made that such patterns or practices violate the provisions of this part the secretary or the secretary's designee shall take such action as will effectuate the purposes of this part. In addition to other remedies provided by this part or other provisions of law, the secretary may recommend to the Treasurer that state funds not be deposited in a financial institution where the secretary has made a finding that such financial institution has engaged in a lending pattern and practice which violates this part.

(b) The secretary shall annually report to the Legislature on the activities of the appropriate regulatory agencies and departments in complying with this part. The report shall include a description of any actions taken by the secretary or the secretary's designee to remedy patterns or practices the secretary determines are in violation of this part.

SEC. 4. Section 35816 is added to the Health and Safety Code, to read:

35816. The secretary shall adopt regulations applicable to all persons who are in the business of originating residential mortgage loans in this state, including, but not limited to, insurers, mortgage bankers, investment bankers and credit unions and who are not depository institutions within the meaning of subsection (2) of Section 2802 of Title 12 of the United States Code. The regulations for residential mortgage loans shall impose substantially the same reporting requirements by geographic area and loan product as are imposed by the federal Home Mortgage Disclosure Act of 1975, as amended (12 U.S.C. Sec. 2801 et seq.).

This section does not apply to subsidiaries of depository institutions or subsidiaries of depository institution holding companies which are currently reporting to a federal or state regulatory agency as provided by the Home Mortgage Disclosure Act of 1975, as amended (12 U.S.C. Sec. 2081 et seq.) or are subject to substantially the same reporting requirements by geographic area and loan product pursuant to an act of a federal or state regulatory agency.

CHAPTER 1493

An act to amend Sections 527.6 and 631 of the Code of Civil Procedure, and to amend Sections 1363, 69503.1, 69845, 73644, 73954, 74344, 74345, and 74745 of, and to add Section 69848 to, the Government Code, relating to local agencies.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 527.6 of the Code of Civil Procedure is amended to read:

527.6. (a) A person who has suffered harassment as defined in subdivision (b) may seek a temporary restraining order, and an injunction prohibiting harassment as provided in this section.

(b) For the purposes of this section, "harassment" is a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, or harasses the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the plaintiff. "Course of conduct" is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."

(c) Upon filing a petition for an injunction under this section, the plaintiff may obtain a temporary restraining order in accordance with subdivision (a) of Section 527. A temporary restraining order may be granted with or without notice upon an affidavit which, to the satisfaction of the court, shows reasonable proof of harassment of the plaintiff by the defendant, and that great or irreparable harm would result to the plaintiff. A temporary restraining order granted under this section shall remain in effect, at the court's discretion, for a period not to exceed 15 days, unless otherwise modified or terminated by the court.

(d) Within 15 days of the filing of the petition, a hearing shall be held on the petition for the injunction. The defendant may file a response which explains, excuses, justifies, or denies the alleged harassment or may file a cross-complaint under this section. At the hearing, the judge shall receive such testimony as is relevant, and may make an independent inquiry. If the judge finds by clear and convincing evidence that unlawful harassment exists, an injunction shall issue prohibiting the harassment. An injunction issued pursuant to this section shall have a duration of not more than three years. At any time within the three months before the expiration of the injunction, the plaintiff may apply for a renewal of the injunction by filing a new petition for an injunction under this section.

(e) Nothing in this section shall preclude either party from representation by private counsel or from appearing on his or her own behalf.

(f) Upon filing of a petition for an injunction under this section, the defendant shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition.

(g) The court shall order the plaintiff or the attorney for the plaintiff to deliver a copy of each temporary restraining order or injunction, or modification or termination thereof, granted under this section, by the close of the business day on which the order was granted, to the law enforcement agencies within the court's discretion as are requested by the plaintiff. Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported harassment.

(h) The prevailing party in any action brought under this section may be awarded court costs and attorney's fees, if any.

(i) Any willful disobedience of any temporary restraining order or injunction granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(j) This section does not apply to any action covered by Section 4359 or 7020 of the Civil Code, or by Chapter 4 (commencing with Section 540) of this title, or by Title 1.6C (commencing with Section 1788) of the Civil Code. Nothing in this section shall preclude a plaintiff's right to utilize other existing civil remedies.

(k) The Judicial Council shall promulgate forms and instructions therefor, rules for service of process, scheduling of hearings, and any other matters required by this section. The petition and response forms shall be simple and concise.

SEC. 1.5. Section 631 of the Code of Civil Procedure is amended to read:

631. Trial by jury may be waived by the several parties to an issue of fact in any of the following ways:

1. By failing to appear at the trial;

2. By written consent filed with the clerk or judge;

3. By oral consent, in open court, entered in the minutes or docket;

4. By failing to announce that a jury is required, at the time the cause is first set upon the trial calendar if it be set upon notice or stipulation, or within five days after notice of setting if it be set without notice or stipulation; provided, that in justice courts such waiver may be made by failure of either party to demand a jury within two days after service upon him of the notice provided for in Section 594 of this code; provided further, that in any superior court action if a jury is demanded by either party in the memorandum to set cause for trial and such party thereafter by announcement or by operation of law waives a trial by jury, then in said event any and all adverse party or parties shall be given 10 days' written notice by the clerk of the court of such waiver, whereupon, notwithstanding any

rule of the court to the contrary, such adverse party or parties shall have not exceeding five days immediately following the receipt of such notice of such waiver, within which to file and serve a demand for a trial by jury and deposit advance jury fees for the first day's trial whenever such deposit is required by rule of court, and if it is impossible for the clerk of the court to give such 10 days' notice by reason of the trial date, or if for any cause said notice is not given, the trial of said action shall be continued by the court for a sufficient length of time to enable the giving of such notice by the clerk of the court to such adverse party.

Regardless of anything contained in the foregoing to the contrary, the court may in its discretion, upon such terms as may be just, allow a trial by jury to be had, although there has been a waiver of such a trial.

5. By failing to deposit with the clerk, or judge, a sum equal to the amount of one day's jury fees payable under the law, 25 days prior to the date set for trial.

6. By failing to deposit with the clerk or judge, promptly after the impanelment of the jury, a sum equal to the mileage or transportation (if any be allowed by law) of the jury accrued up to that time;

7. By failing to deposit with the clerk or judge, at the beginning of the second and each succeeding day's session a sum equal to one day's fees of the jury, and the mileage or transportation, if any there be.

8. When the party who has demanded trial by jury either waives such trial upon or after the assignment for trial to a specific department of the court, or upon or after the commencement of the trial, or fails to deposit the fees as provided in subdivision 6 or 7; by the other party either failing promptly to demand trial by jury before the judge in whose department such waiver, other than for the failure to deposit such fees, was made, or by his failing promptly to deposit the fees provided in subdivision 6 or 7.

The court may, in its discretion upon such terms as may be just, allow a trial by jury to be had although there has been a waiver of such a trial.

SEC. 2. Section 1363 of the Government Code is amended to read:

1363. Unless otherwise provided, every oath of office certified by the officer before whom it was taken shall be filed within the time required as follows:

(a) The oath of all officers whose authority is not limited to any particular county, in the office of the Secretary of State.

(b) The oath of all officers elected or appointed for any county, and, except as provided in subdivision (d), of all officers whose duties are local, or whose residence in any particular county is prescribed by law, in the office of the county clerk of their respective counties.

(c) Each judge of a superior court and county clerk shall file a copy of his or her official oath, signed with his or her own proper

signature, in the office of the Secretary of State as soon as he or she has taken and subscribed his or her oath.

(d) The oath of all officers for any independent special district, as defined in Section 56044, in the office of the clerk or secretary of that district.

SEC. 3. Section 69503.1 of the Government Code is amended to read:

69503.1. (a) Notwithstanding Section 69503 of the Government Code or any other law relating to the destruction of court records except the provisions of this section and Section 69503.2, the county clerk may cause to be destroyed any records, papers, case files, and exhibits in any superior court action or proceeding after 30 years have elapsed since the filing of any paper in the action or proceeding and when the records of the county clerk do not show that the action or proceeding is pending on appeal in any court. However, minute book entries, minute books, and judgment books may not be destroyed unless microfilmed in accordance with Section 69503, and shall constitute the record for all purposes in lieu of the records, papers, and exhibits destroyed. For the purposes of this section, "destroy" means destroy or dispose of for the purposes of destruction.

(b) Prior to the disposition of such records the county clerk shall give notice of the proposed disposition to the Secretary of State, who shall have 60 days to request the transfer of the records. If the Secretary of State does not request the transfer of the records the county clerk may destroy them pursuant to this section.

(c) Case files of civil actions which have been dismissed may be destroyed pursuant to this section seven years after dismissal. Case files of civil actions for tortious injury to the person or for wrongful death, which have not been dismissed, may be destroyed 15 years after final judgment, except case files of actions involving the filing of a petition pursuant to Section 372 of the Code of Civil Procedure; provided that no such case file shall be destroyed if the action is pending or under appeal, judgment in the action has been enjoined, or the time in which to enforce the judgment has been extended by court order or by operation of law.

(d) This section shall not apply to the records of probate, real property, juvenile, criminal, or adoption actions or proceedings.

SEC. 4. Section 69845 of the Government Code is amended to read:

69845. The clerk of the superior court may keep a register of actions in which shall be entered the title of each cause, with the date of its commencement and a memorandum of every subsequent proceeding in the action with its date.

In the event the clerk determines that it is not necessary to keep a register of actions in order to conduct the business of the clerk's office, the entire register of actions, or portions thereof deemed unnecessary by the clerk, may be destroyed without microfilming or otherwise retaining any copy. Prior to destruction, the clerk shall

give notice of the proposed destruction to the Secretary of State, who shall have 60 days to request the transfer of the records to the possession of the Secretary of State.

SEC. 5. Section 69848 is added to the Government Code, to read:

69848. The clerk of the superior court may use a facsimile signature on any court documents regularly maintained in the ordinary course of business for the purpose of filing or certifying those documents, provided the authorized deputy initials the facsimile signature.

SEC. 6. Section 73644 of the Government Code is amended to read:

73644. 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 the County of San Diego. 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 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 of the County of San Diego.

(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 deputy clerk-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 or unclassified service of the County of San Diego.

(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 the County of San Diego. 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 the County of San Diego.

(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 the County of San Diego.

(i) One deputy clerk-interpreter who shall receive a biweekly salary at a rate equal to that specified for deputy clerk III.

(j) One deputy clerk-research attorney I or deputy clerk-law clerk, as the case may be. A deputy clerk-research attorney I 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.

(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 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.

(*l*) 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 of 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 of 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 of the County of San Diego.

(m) Notwithstanding subdivision (b) of Section 73649 up to 10 extra help positions (hourly rate) to be appointed by and serve at the pleasure of 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 a fiscal year on a part-time basis.

(n) Notwithstanding subdivision (b) of Section 73649 up to 10 deputy clerk-court workers may be appointed by and serve at the pleasure of the court administrator. The class of deputy clerk-court worker provides for temporary appointments to positions in classes not listed in Section 74345 pending a review and evaluation of the

duties of these positions by the court administrator, and the establishment of specific classes as provided in this section. The rate of pay for each individual employed in this class shall be within the range proposed for the class pending establishment, at a rate determined by the court administrator following consultation with the county personnel director. The rules regarding appointment and compensation as they relate to appointments to deputy clerk-court worker shall be the same as those applicable to the class that is pending establishment. Appointments shall be temporary and shall not exceed six months. Employee benefits, if applicable, shall be equal to those granted to the class in the service of the County of San Diego to which the pending class will be tied for benefit purposes. When such an appointment is made, the class, compensation (including salary and fringe benefits), and number of such positions may be established by joint action of the majority of the judges and the board of supervisors in accordance with established county personnel and budgetary procedures. The court administrator may then appoint additional attachés to such classes of positions in the same manner as those for which express provision is made, and they shall receive the compensation so provided. Persons occupying deputy clerk-court worker positions shall have their appointments expire not later than 30 calendar days following promulgation of a list of certified eligibles for the new class. Appointments to the new class shall continue at the stated compensation or as thereafter modified by joint action of the majority of the judges and the board of supervisors.

(o) Notwithstanding subdivision (b) of Section 73649, 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.

(p) Except as provided in this section, Section 74345 shall apply to the attachés appointed pursuant to this section and Section 73643.

SEC. 7. Section 73954 of the Government Code is amended to read:

73954. The court administrator may 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 majority of the judges. The salary of the assistant court administrator shall be 18 percent below that specified for assistant court administrator of the San Diego Judicial District.

(b) One deputy-clerk division manager III who shall receive a

biweekly salary at a rate 15.2 percent higher than that specified for deputy clerk-division managers II, in the San Diego Judicial District.

(c) Five deputy clerk-division managers I 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) Nineteen 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 or unclassified service of the County of San Diego.

(e) Eighty-two 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 the County of San Diego. At the discretion of the court administrator, appointments to the deputy clerk I class may be at any step within the salary range.

(f) 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 the County of San Diego. 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.

(g) Three deputy clerk interpreters who shall receive a biweekly salary at the rate equal to that specified for deputy clerk III.

(h) 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.

(i) 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.

(j) 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.

(k) One deputy clerk-research attorney I or law clerk, as the case may be. A deputy clerk-research attorney I 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.

(*l*) Notwithstanding subdivision (b) of Section 73957 up to 10 extra help positions (hourly rate) to be appointed by and serve at the pleasure of 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.

(m) Notwithstanding subdivision (b) of Section 73957, up to 10 deputy clerk-court workers may be appointed by and serve at the pleasure of the court administrator. The class of deputy clerk-court worker provides for temporary appointments to positions in classes not listed in Section 74345 pending a review and evaluation of the duties of these positions by the court administrator, and the establishment of specific classes as provided in this section. The rate of pay for each individual employed in this class shall be within the range proposed for the class pending establishment at a rate determined by the court administrator following consultation with the county personnel director. The rules regarding appointment and compensation as they relate to appointments to deputy clerk-court worker shall be the same as those applicable to the class that is pending establishment. Appointments shall be temporary and shall not exceed six months. Employee benefits, if applicable, shall be equal to those granted to the class in the service of the County of San Diego to which the pending class will be tied for benefit purposes. When such an appointment is made, the class, compensation (including salary and fringe benefits), and number of such positions may be established by joint action of the majority of the judges and the board of supervisors in accordance with established county personnel and budgetary procedures. The court administrator may then appoint additional attachés to such classes of positions in the same manner as those for which express provision is made, and they shall receive the compensation so provided. Persons occupying deputy clerk-court worker positions shall have their appointments

expire not later than 30 calendar days following promulgation of a list of certified eligibles for the new class. Appointments to the new class shall continue at the stated compensation or as thereafter modified by joint action of the majority of the judges and the board of supervisors.

(n) Notwithstanding subdivision (b) of Section 73957, 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 unclassified service of 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 unclassified service of 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 unclassified service of the County of San Diego.

(o) Except as provided herein, the provisions of Section 74345 shall apply to the attachés appointed pursuant to this section and Section 73953.

SEC. 8. Section 74344 of the Government Code is amended to read:

74344. 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 deputy clerk-division manager III.

(b) Four deputy clerk-division managers III who shall receive a biweekly salary at a rate 15.2 percent higher than that specified for deputy clerk-division manager II. One of these positions may be designated as branch manager. When a position is designated branch manager, the incumbent shall receive a bonus of 10 percent.

(c) Five deputy clerk-division managers II 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) Fifty-two 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 or unclassified 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 of 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 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 assistant accountant in the classified service of the County of San Diego. A deputy clerk-associate accountant shall receive a biweekly salary at a rate equal to that specified for associate accountant in the classified service of the County of San Diego. A deputy clerk-senior accountant shall receive a biweekly salary at a rate equal to that specified for senior accountant in the classified service of 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 of 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 of 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 of 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 of 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 of the County of San Diego. 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 the County of San Diego.

(n) One deputy clerk-DP systems manager who 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.

(o) 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.

(p) Three deputy clerk-senior systems analysts, associate systems analysts, assistant systems analysts, or systems analyst trainees, 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 a 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 a biweekly salary at a rate equal to that specified for assistant systems analyst in the classified service of the County of San Diego. A deputy clerk-systems analyst trainee shall receive a biweekly salary at a rate equal to that specified for systems analyst trainee in the classified service of the County of San Diego.

(q) The positions identified in subdivisions (n), (o), and (p) shall be administered by the court administrator of the San Diego Judicial District subject to policy direction by the court administrators of the San Diego, North County, El Cajon, and South Bay Judicial Districts. The purpose and intent of this subdivision is to allow all four municipal court judicial districts to determine the work assignments of data-processing personnel.

(r) One deputy clerk-print shop helper, offset equipment operator, or publication supervisor, as the case may be. A deputy clerk-print shop helper shall receive a biweekly salary at a rate equal to that specified for print shop helper 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 specified for 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.

(s) One deputy clerk-research attorney I or research attorney II, as the case may be. A deputy clerk-research attorney I 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-research attorney II shall receive a biweekly salary at a rate equal to that specified for deputy county counsel II in the classified service of the County of San Diego.

(t) Notwithstanding subdivision (b) of Section 74348, up to 10 deputy clerk-court workers may be appointed by and serve at the pleasure of the court administrator. The class of deputy clerk-court worker provides for temporary appointments to positions in classes

not listed in Section 74345 pending a review and evaluation of the duties of these positions by the court administrator, and the establishment of specific classes as provided in this section. 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 following consultation with the county personnel director. The rules regarding appointment and compensation as they relate to appointments to deputy clerk-court worker shall be the same as those applicable to the class that is pending establishment. Appointments shall be temporary and shall not exceed six months. Employee benefits, if applicable, shall be equal to those granted to the class in the service of the County of San Diego to which the pending class will be tied for benefit purposes. When such an appointment is made, the class, compensation (including salary and fringe benefits), and number of such positions may be established by joint action of the majority of the judges and the board of supervisors in accordance with established county personnel and budgetary procedures. The court administrator may then appoint additional attachés to such classes of positions in the same manner as those for which express provision is made, and they shall receive the compensation so provided. Persons occupying deputy clerk-court worker positions shall have their appointments expire not later than 30 calendar days following promulgation of a list of certified eligibles for the new class. Appointments to the new class shall continue at the stated compensation or as thereafter modified by joint action of the majority of the judges and the board of supervisors.

(u) Notwithstanding subdivision (b) of Section 74348, up to 10 extra help deputy clerk trainee positions (hourly rate) at the junior clerk-typist level, to be appointed by and serve at the pleasure of 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.

(v) Notwithstanding subdivision (b) of Section 74348, up to 10 extra help positions (hourly rate) to be appointed by and serve at the pleasure of 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.

(w) Notwithstanding subdivision (b) of Section 74348, 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.

SEC. 9. Section 74345 of the Government Code is amended to read:

74345. (a) All matters affecting the employment and compensation (including salary and fringe benefits) of municipal court officers and attachés not specifically provided for in this article or other provisions of state law shall be governed by the then-current ordinances and resolutions of the Board of Supervisors and the Rules for the Classified or Unclassified Service of the County of San Diego. Whenever in the rules, ordinances, or resolutions action or approval is required to be taken or given by the chief administrative officer or the county personnel director, it shall be taken or given, as to municipal court officers and attachés other than those serving at the pleasure of the court, by the court administrator with the approval of the majority of the judges or their designees, or as to persons serving at the pleasure of the court, by the majority of the judges of the municipal court, or their designees.

(b) The hereinafter specified court classes are deemed to be comparable in job level to the specified comparable classes in the service of the County of San Diego. Whenever the salaries of such classes in the service of the County of San Diego 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 amount effective on the same date. 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 that day. Any person whose title is changed as a result of the enactment of or of any amendments to this article shall receive credit for continued service 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. 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-systems analyst trainee	Systems analyst trainee
Deputy clerk-senior accountant	Senior accountant
Deputy clerk-associate accountant	Associate accountant
Deputy clerk-assistant accountant	Assistant accountant
Deputy clerk-trainee	Junior clerk-typist
Deputy clerk-law clerk	Law clerk
Deputy clerk-research attorney I	Deputy county counsel I
Deputy clerk-research attorney II	Deputy county counsel II
Deputy clerk-EDP coordinator	Departmental EDP coordinator
Deputy clerk-print shop helper	Print shop helper
Deputy clerk-publication supervisor	Publication supervisor
Deputy clerk-offset equipment operator	Offset equipment operator
Deputy clerk-DP systems manager	DP systems manager

(c) Persons employed on and after January 1, 1975, in a class eligible for advancement in range shall receive the same step increases applicable to persons so employed in the County of San Diego on or after July 1, 1974. Persons employed prior to January 1,

1975, in a class eligible for advancement in range shall receive the same step increases applicable to persons so employed in the County of San Diego prior to July 1, 1974.

(d) Officers and attachés may be appointed to a class and position in the service of a court in one judicial district from the service of a court in another judicial district within the County of San Diego, from the service of the County of San Diego, from the service of the Superior Court of San Diego County, or from the service of the marshal, in the same manner that employees of the County of San Diego may be appointed in departments of the county. In determining the step of the salary range at which such employee shall be paid, the employee shall be given credit for the immediately preceding continuous prior service to a court, the marshal, or the County of San Diego.

(e) A promotion is an appointment to a class compensated at a higher base salary, at any like-numbered step, than the class relinquished. Upon promotion an employee shall be placed at the lowest step which provides at least a 5-percent increase over the base salary of the step occupied in the former class, but in no event higher than the top step of the class to which promoted.

(f) A demotion is an appointment to a class compensated at a lower base salary, at any like-numbered step, than the class relinquished. The demoted employee's step shall be set at the same numbered step for the demoted class as for the former class, except that the step shall not be set lower than the normal entry step. If the demotion is to the class in which the employee served immediately prior to being promoted, the employee's step shall be that held immediately prior to the promotion.

SEC. 10. Section 74745 of the Government Code is amended to read:

74745. 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 the County of San Diego. 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 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 of the County of San Diego.

(c) One deputy clerk-division manager III who shall receive a biweekly salary at a rate 15.2 percent higher than that specified for deputy clerk-division manager II in the San Diego Judicial District.

(d) Three 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 in the San Diego Judicial District.

(e) 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 assistant accountant in the classified service of the County of San Diego. A deputy clerk-associate accountant shall receive a biweekly salary at a rate equal to that specified for associate accountant in the classified service of the County of San Diego. A deputy clerk-senior accountant shall receive a biweekly salary at a rate equal to that specified for senior accountant in the classified service of the County of San Diego.

(f) Eleven deputy clerks IV, each of whom shall receive a biweekly salary equal to that specified for superior court clerk in the classified or unclassified service of the County of San Diego.

(g) Thirty-nine deputy clerks III, II, or I, as the case may be. Each of the deputy clerks III shall receive a biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each of the deputy clerks II shall receive a biweekly salary at a rate 14 percent below that specified for deputy clerk III. Each of the deputy clerks I shall receive a biweekly salary equal to that specified for intermediate clerk-typist in the classified service of the County of San Diego. At the discretion of the court administrator, appointments to the deputy clerk I classification may be at any step within the salary range.

(h) Three 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 the County of San Diego.

(i) 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 the County of San Diego. A deputy clerk-administrative secretary III shall receive a biweekly salary at the rate specified for 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 administrative secretary II in the classified service of the County of San Diego. A deputy clerk administrative secretary I shall receive a weekly salary at the rate specified for administrative secretary I in the classified service of the County of San Diego.

(j) Two deputy clerk interpreters who shall receive a biweekly salary at a rate equal to that specified for deputy clerk III.

(k) Notwithstanding subdivision (b) of Section 74749, up to 10 deputy clerk-court workers may be appointed by and serve at the pleasure of the court administrator. The class of deputy clerk-court worker provides for temporary appointments to positions in classes not listed in Section 74345 pending a review and evaluation of the duties of these positions by the court administrator, and the establishment of specific classes as provided in this section. The rate

of pay for each individual employed in this class shall be within the range proposed for the class pending establishment, at a rate determined by the court administrator following consultation with the county personnel director. The rules regarding appointment and compensation as they relate to appointments to deputy clerk-court worker shall be the same as those applicable to the class that is pending establishment. Appointments shall be temporary and shall not exceed six months. Employee benefits, if applicable, shall be equal to those granted to the class in the service of the County of San Diego to which the pending class shall be tied for benefit purposes. When such an appointment is made, the class, compensation (including salary and fringe benefits), and number of such positions may be established by joint action of the majority of the judges and the board of supervisors in accordance with established county personnel and budgetary procedures. The court administrator may then appoint additional attachés to such classes of positions in the same manner as those for which express provision is made, and they shall receive the compensation so provided. Persons occupying deputy clerk-court worker positions shall have their appointments expire not later than 30 calendar days following promulgation of a list of certified eligibles for the new class. Appointments to the new class shall continue at the stated compensation or as thereafter modified by joint action of the majority of the judges and the board of supervisors.

(*l*) Notwithstanding subdivision (b) of Section 74749 up to 10 extra help positions (hourly rate) to be appointed by and serve at the pleasure of 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.

(m) Notwithstanding subdivision (c) of Section 74749, 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.

(n) Except as provided herein, the provisions of Section 74345 shall apply to the attachés appointed pursuant to this section and Section 74744.

SEC. 11. No reimbursement is required by Section 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 this act which, in the aggregate, do not result in additional net costs.

SEC. 12. No reimbursement is required by Sections 6 to 10, inclusive, of 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 1494

An act to add Section 10197.5 to the Insurance Code, relating to health.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 10197.5 is added to the Insurance Code, to read:

10197.5. (a) On and after July 1, 1988, the commissioner shall initiate a process to adopt or recommend at least one and no more than three sets of standards for policies to supplement Medicare for sale or issuance in California, regardless of the situs of the contract. The adopted or recommended standards shall be substantive and include levels of coverage, benefits, reimbursement formulas, claims procedures, policy forms, and other elements of the policies. In addition, in adopting or recommending the standards, the commissioner shall designate a set of criteria for a standard form of policy and coverage which shall indicate a minimum, extended, and comprehensive policy type. Policies which meet all of these criteria may indicate that they comply with the commissioner's criteria for the particular policy type. The policies shall be written in language that is unambiguous and can be readily understood by the average senior using a standard format for the purpose of side-by-side comparison.

(b) No later than six months after the adoption or recommendation of any standard under this section, no insurer or agent shall do any of the following:

(1) Recommend for sale, or sell, a policy which does not strictly comply with any standard adopted or recommended pursuant to this section.

(2) Cause a policyholder to purchase from the same company or from the same agent or broker more than one policy meeting the same standards to supplement Medicare for any period of time in excess of six months.

(c) Nothing in this section shall be construed to limit an insurer from offering policies which exceed any standards adopted or recommended pursuant to this section.

(d) The commissioner may adopt regulations to implement 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, any regulations adopted to implement this section shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

CHAPTER 1495

An act to amend Sections 911.5 and 10195 of the Insurance Code, relating to insurance, and making an appropriation therefor.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987]

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

SECTION 1. Section 911.5 of the Insurance Code is amended to read:

911.5. The commissioner shall prepare an annual report to the Legislature summarizing financial data for all property and casualty insurers subject to Section 905 and all life and disability insurers subject to Section 913. The report shall include the following:

(a) For all property and casualty insurers subject to the reporting requirements of Section 905, the report shall provide each of the following:

(1) Aggregate balance sheet, statement of income, and capital and surplus account.

(2) Aggregate net premiums and losses data by lines of business nationwide.

(3) Aggregate net premiums and losses data by lines of business for the state.

To the extent practicable the report shall utilize the categories delineated in Sections 907, 908, 909, and 910. Wherever feasible, property and casualty information shall be broken down into subcategories for commercial and personal lines.

(b) For life and disability insurers subject to the reporting requirements of Section 913, the report shall provide each of the following:

(1) Aggregate balance sheet, summary of operations, and capital and surplus account.

(2) Aggregate analysis of operations by lines of business nationwide.

(3) Aggregate direct premiums, benefits and losses data by lines

of business for the state.

The report shall be presented to the Legislature annually on or before June 15, or any earlier date that the Legislature may establish in the budget process, and shall be compiled from financial information reported in the most recent filings to the commissioner pursuant to Section 900.

(c) For life and disability insurers and nonprofit health service plan contracts subject to Section 10195, the report shall summarize reports, plans, exemptions, or other documents prepared pursuant to subdivision (e) of Section 10195.

(d) 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. 2. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days for purposes of review of the contract at which time the subscriber may return the contract. Such return shall void the policy from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care, on and after January 1, 1985, the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(6) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. Such standards shall be in addition to and in accordance with applicable laws of this state, including provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2.

(c) The commissioner may issue reasonable regulations that

specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies to supplement Medicare shall not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which are reasonable in relation to the premium charged. The commissioner shall issue reasonable regulations to establish minimum standards for loss ratios of insurance policies to supplement Medicare on the basis of incurred claims experience and earned premiums for the entire period for which rates are computed to provide coverage and in accordance with accepted actuarial principles and practices. The commissioner may establish different loss ratios for group policies of insurance than for individual policies of insurance. For purposes of regulations issued pursuant to this section, insurance polices to supplement Medicare issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

The commissioner shall require that insurers maintain detailed experience data for policies subject to this section and that insurers make an annual filing with the commissioner disclosing the loss ratio for each policy subject to this section.

If that filing or other information received by the commissioner indicates that the actual loss ratio for a policy is less than the minimum loss ratio established by the commissioner, the commissioner shall require that insurers file and implement a corrective plan. This plan shall include the utilization of premium reductions, dividends, benefit increases, or any combination of these or other methods such that the minimum loss ratio can be reasonably expected to be achieved. Any corrective plan shall be reviewed and approved by the commissioner prior to implementation.

If, in the opinion of the commissioner, a policy's failure to meet the minimum loss ratio requirement is due to unusual reserve fluctuations, economic conditions, or other nonrecurring conditions, the commissioner may exempt the policy from the need for a corrective plan for that year. Any exemption shall be in writing and specify the reasons for the granting of the exemption.

If an insurer fails to file and implement a corrective plan in a timely manner, the commissioner shall withdraw approval of the policy according to the procedures set forth in Section 10293. This

remedy shall be in addition to any remedy available in this section or under other laws of this state. Any report, plan, exemption, or other document prepared pursuant to this subdivision shall be accessible to the public as a public record. A summary of reports, plans, exemptions, or other documents prepared pursuant to this subdivision shall be included in the commissioner's annual report to the Legislature in accordance with Section 911.5.

The commissioner shall adopt regulations to implement this subdivision and shall amend existing regulations to conform to this subdivision on or before September 1, 1988.

For the purposes of this subdivision, an insurance policy to supplement Medicare includes each specific insurance policy type for individual or group coverage, delivered or issued for delivery by any insurer in this state. "Specific insurance policy type" includes a policy with all of the same provisions and coverage specifications.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective

insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance policies to supplement Medicare, disability income policies, basic, catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the requirements of this section.

SEC. 2.03. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days for purposes of review of the contract at which time the subscriber may return the contract. The return shall void the policy from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care in a skilled nursing care facility, dental care, eye glasses, prescription drugs, or hearing aids, the cover page of the policy and the cover page of the outline of coverage required by subdivision (g) shall contain the statement in no less than 12-point upper case type THIS POLICY DOES NOT COVER (indicate the specific coverage set forth above in this paragraph that is not covered by the policy). Also, the cover page of the policy shall include at least ¼ inch below that statement, the following statement, in no less than 12-point upper case type: THERE MAY BE OTHER EXCLUSIONS IN THIS POLICY, PLEASE REFER TO PAGE (indicate page where other exclusions are described, if other exclusions exist). The requirements of this paragraph apply on and after July 1, 1988.

(6) Until July 1, 1988, if the policy does not cover custodial care, the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(7) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. These standards shall be in addition to and in accordance with applicable laws of this state, including subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies to supplement Medicare shall not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which are reasonable in relation to the premium charged. The commissioner shall issue reasonable regulations to establish minimum standards for loss ratios of insurance policies to supplement Medicare on the basis of incurred claims experience and earned premiums for the entire period for which rates are computed to provide coverage and in accordance with accepted actuarial principles and practices. The commissioner

may establish different loss ratios for group policies of insurance than for individual policies of insurance. For purposes of regulations issued pursuant to this section, insurance polices to supplement Medicare issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

The commissioner shall require that insurers maintain detailed experience data for policies subject to this section and that insurers make an annual filing with the commissioner disclosing the loss ratio for each policy subject to this section.

If that filing or other information received by the commissioner indicates that the actual loss ratio for a policy is less than the minimum loss ratio established by the commissioner, the commissioner shall require that insurers file and implement a corrective plan. This plan shall include the utilization of premium reductions, dividends, benefit increases, or any combination of these or other methods such that the minimum loss ratio can be reasonably expected to be achieved. Any corrective plan shall be reviewed and approved by the commissioner prior to implementation.

If, in the opinion of the commissioner, a policy's failure to meet the minimum loss ratio requirement is due to unusual reserve fluctuations, economic conditions, or other nonrecurring conditions, the commissioner may exempt the policy from the need for a corrective plan for that year. Any exemption shall be in writing and specify the reasons for the granting of the exemption.

If an insurer fails to file and implement a corrective plan in a timely manner, the commissioner shall withdraw approval of the policy according to the procedures set forth in Section 10293. This remedy shall be in addition to any remedy available in this section or under other laws of this state. Any report, plan, exemption, or other document prepared pursuant to this subdivision shall be accessible to the public as a public record. A summary of reports, plans, exemptions, or other documents prepared pursuant to this subdivision shall be included in the commissioner's annual report to the Legislature in accordance with Section 911.5.

The commissioner shall adopt regulations to implement this subdivision and shall amend existing regulations to conform to this subdivision on or before September 1, 1988.

For the purposes of this subdivision, an insurance policy to supplement Medicare includes each specific insurance policy type for individual or group coverage, delivered or issued for delivery by any insurer in this state. "Specific insurance policy type" includes a policy with all of the same provisions and coverage specifications.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the

state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance policies to supplement Medicare, disability income policies, basic, catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or

combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the requirements of this section.

SEC. 2.05. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days for purposes of review of the contract at which time the subscriber may return the contract. The return shall void the policy from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care, on and after January 1, 1985, the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(6) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. These standards shall be in addition to and in accordance with applicable laws of this state, including subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies

to supplement Medicare shall not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which have a minimum loss ratio of 60 percent for individual policies and 70 percent for group policies. On or before September 1, 1988, the commissioner shall issue regulations to establish these minimum standards on the basis of policy experience of the reasonable period of time for which rates are paid and coverage is afforded. The time period shall be less than the life of the policy. For the purposes of this section and the regulations issued pursuant to it, insurance policies to supplement Medicare issued as a result of solicitation of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

The commissioner shall require that insurers maintain detailed experience data for policies subject to this section and that insurers make an annual filing with the commissioner disclosing the loss ratio for each policy subject to this section.

If that filing or other information received by the commissioner indicates that the actual loss ratio for a policy is less than the minimum loss ratio established by the commissioner, the commissioner shall require that insurers file and implement a corrective plan. This plan shall include the utilization of premium reductions, dividends, benefit increases, or any combination of these or other methods such that the minimum loss ratio can be reasonably expected to be achieved. Any corrective plan shall be reviewed and approved by the commissioner prior to implementation.

If, in the opinion of the commissioner, a policy's failure to meet the minimum loss ratio requirement is due to unusual reserve fluctuations, economic conditions, or other nonrecurring conditions, the commissioner may exempt the policy from the need for a corrective plan for that year. Any exemption shall be in writing and specify the reasons for the granting of the exemption.

If an insurer fails to file and implement a corrective plan in a timely manner, the commissioner shall withdraw approval of the policy according to the procedures set forth in Section 10293. This remedy shall be in addition to any remedy available in this section or under other laws of this state. Any report, plan, exemption, or other document prepared pursuant to this subdivision shall be accessible to the public as a public record. A summary of reports, plans, exemptions, or other documents prepared pursuant to this subdivision shall be included in the commissioner's annual report to the Legislature in accordance with Section 911.5.

The commissioner shall adopt regulations to implement this

subdivision and shall amend existing regulations to conform to this subdivision on or before September 1, 1988.

For the purposes of this subdivision, an insurance policy to supplement Medicare includes each specific insurance policy type for individual or group coverage, delivered or issued for delivery by any insurer in this state. "Specific insurance policy type" includes a policy with all of the same provisions and coverage specifications.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance

policies to supplement Medicare, disability income policies, basic, catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the requirements of this section.

SEC. 2.06. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days after the receipt of the policy or certificate for purposes of review of the contract at which time the subscriber may return the contract. The return shall void the policy or certificate from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be fully refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care, on and after January 1, 1985, the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(6) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of

Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. These standards shall be in addition to and in accordance with applicable laws of this state, including Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies to supplement Medicare shall not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which are reasonable in relation to the premium charged. The commissioner shall issue reasonable regulations to establish minimum standards for loss ratios of insurance policies to supplement Medicare on the basis of incurred claims experience and earned premiums for the entire period for which rates are computed to provide coverage and in accordance with accepted actuarial principles and practices. The commissioner may establish different loss ratios for group policies of insurance than for individual policies of insurance. For purposes of regulations issued pursuant to this section, insurance polices to supplement Medicare issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

The commissioner shall require that insurers maintain detailed experience data for policies subject to this section and that insurers make an annual filing with the commissioner disclosing the loss ratio for each policy subject to this section.

If that filing or other information received by the commissioner indicates that the actual loss ratio for a policy is less than the minimum loss ratio established by the commissioner, the commissioner shall require that insurers file and implement a corrective plan. This plan shall include the utilization of premium reductions, dividends, benefit increases, or any combination of these or other methods such that the minimum loss ratio can be reasonably expected to be achieved. Any corrective plan shall be reviewed and approved by the commissioner prior to implementation.

If, in the opinion of the commissioner, a policy's failure to meet the minimum loss ratio requirement is due to unusual reserve fluctuations, economic conditions, or other nonrecurring conditions, the commissioner may exempt the policy from the need for a corrective plan for that year. Any exemption shall be in writing and specify the reasons for the granting of the exemption.

If an insurer fails to file and implement a corrective plan in a timely manner, the commissioner shall withdraw approval of the policy according to the procedures set forth in Section 10293. This remedy shall be in addition to any remedy available in this section or under other laws of this state. Any report, plan, exemption, or other document prepared pursuant to this subdivision shall be accessible to the public as a public record. A summary of reports, plans, exemptions, or other documents prepared pursuant to this subdivision shall be included in the commissioner's annual report to the Legislature in accordance with Section 911.5.

The commissioner shall adopt regulations to implement this subdivision and shall amend existing regulations to conform to this subdivision on or before September 1, 1988.

For the purposes of this subdivision, an insurance policy to supplement Medicare includes each specific insurance policy type for individual or group coverage, delivered or issued for delivery by any insurer in this state. "Specific insurance policy type" includes a policy with all of the same provisions and coverage specifications.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state or elsewhere and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons

eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance policies to supplement Medicare, disability income policies, basic, catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

(k) This section applies to insurance provided to residents of this state under a group policy, in accordance with applicable laws of this state, including provisions of Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2 regardless of the situs of the contract.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the requirements of this section.

SEC. 2.08. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days for purposes of review of the contract at which time the subscriber may return the contract. The return shall void the policy from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care in a skilled nursing care facility, dental care, eye glasses, prescription drugs, or hearing aids, the cover page of the policy and the cover page of the outline of coverage required by subdivision (g) shall contain the statement in no less than 12-point upper case type THIS POLICY DOES NOT COVER (indicate the specific coverage set forth above in this paragraph that is not covered by the policy). Also, the cover page of the policy shall include at least ¼ inch below that statement, the following statement, in no less than 12-point upper case type: THERE MAY BE OTHER EXCLUSIONS IN THIS POLICY, PLEASE REFER TO PAGE (indicate page where other exclusions are described, if other exclusions exist). The requirements of this paragraph apply on and after July 1, 1988.

(6) Until July 1, 1988, if the policy does not cover custodial care, the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(7) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. These standards shall be in addition to and in accordance with applicable laws of this state, including subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies to supplement Medicare shall not deny a claim for losses incurred

more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which have a minimum loss ratio of 60 percent for individual policies and 70 percent for group policies. On or before September 1, 1988, the commissioner shall issue regulations to establish these minimum standards on the basis of policy experience of the reasonable period of time for which rates are paid and coverage is afforded. The time period shall be less than the life of the policy. For the purposes of this section and the regulations issued pursuant to it, insurance policies to supplement Medicare issued as a result of solicitation of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

The commissioner shall require that insurers maintain detailed experience data for policies subject to this section and that insurers make an annual filing with the commissioner disclosing the loss ratio for each policy subject to this section.

If that filing or other information received by the commissioner indicates that the actual loss ratio for a policy is less than the minimum loss ratio established by the commissioner, the commissioner shall require that insurers file and implement a corrective plan. This plan shall include the utilization of premium reductions, dividends, benefit increases, or any combination of these or other methods such that the minimum loss ratio can be reasonably expected to be achieved. Any corrective plan shall be reviewed and approved by the commissioner prior to implementation.

If, in the opinion of the commissioner, a policy's failure to meet the minimum loss ratio requirement is due to unusual reserve fluctuations, economic conditions, or other nonrecurring conditions, the commissioner may exempt the policy from the need for a corrective plan for that year. Any exemption shall be in writing and specify the reasons for the granting of the exemption.

If an insurer fails to file and implement a corrective plan in a timely manner, the commissioner shall withdraw approval of the policy according to the procedures set forth in Section 10293. This remedy shall be in addition to any remedy available in this section or under other laws of this state. Any report, plan, exemption, or other document prepared pursuant to this subdivision shall be accessible to the public as a public record. A summary of reports, plans, exemptions, or other documents prepared pursuant to this subdivision shall be included in the commissioner's annual report to the Legislature in accordance with Section 911.5.

The commissioner shall adopt regulations to implement this subdivision and shall amend existing regulations to conform to this

subdivision on or before September 1, 1988.

For the purposes of this subdivision, an insurance policy to supplement Medicare includes each specific insurance policy type for individual or group coverage, delivered or issued for delivery by any insurer in this state. "Specific insurance policy type" includes a policy with all of the same provisions and coverage specifications.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance policies to supplement Medicare, disability income policies, basic,

catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the requirements of this section.

SEC. 2.09. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days after the receipt of the policy or certificate for purposes of review of the contract at which time the subscriber may return the contract. The return shall void the policy or certificate from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be fully refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care in a skilled nursing care facility, dental care, eye glasses, prescription drugs, or hearing aids, the cover page of the policy and the cover page of the outline of coverage required by subdivision (g) shall contain the statement in no less than 12-point upper case type THIS POLICY DOES NOT COVER (indicate the specific coverage set forth above in this paragraph that is not covered by the policy). Also, the cover page of the policy shall include at least ¼ inch below that statement, the

following statement, in no less than 12-point upper case type: THERE MAY BE OTHER EXCLUSIONS IN THIS POLICY, PLEASE REFER TO PAGE (indicate page where other exclusions are described, if other exclusions exist). The requirements of this paragraph apply on and after July 1, 1988.

(6) Until July 1, 1988, if the policy does not cover custodial care, the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(7) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. These standards shall be in addition to and in accordance with applicable laws of this state, including Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies to supplement Medicare shall not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which are reasonable in relation to the premium charged. The commissioner shall issue reasonable regulations to establish minimum standards for loss ratios of insurance policies to supplement Medicare on the basis of incurred claims experience and earned premiums for the entire period for which rates are computed to provide coverage and in accordance with accepted actuarial principles and practices. The commissioner may establish different loss ratios for group policies of insurance than for individual policies of insurance. For purposes of regulations issued pursuant to this section, insurance polices to supplement Medicare issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

The commissioner shall require that insurers maintain detailed

experience data for policies subject to this section and that insurers make an annual filing with the commissioner disclosing the loss ratio for each policy subject to this section.

If that filing or other information received by the commissioner indicates that the actual loss ratio for a policy is less than the minimum loss ratio established by the commissioner, the commissioner shall require that insurers file and implement a corrective plan. This plan shall include the utilization of premium reductions, dividends, benefit increases, or any combination of these or other methods such that the minimum loss ratio can be reasonably expected to be achieved. Any corrective plan shall be reviewed and approved by the commissioner prior to implementation.

If, in the opinion of the commissioner, a policy's failure to meet the minimum loss ratio requirement is due to unusual reserve fluctuations, economic conditions, or other nonrecurring conditions, the commissioner may exempt the policy from the need for a corrective plan for that year. Any exemption shall be in writing and specify the reasons for the granting of the exemption.

If an insurer fails to file and implement a corrective plan in a timely manner, the commissioner shall withdraw approval of the policy according to the procedures set forth in Section 10293. This remedy shall be in addition to any remedy available in this section or under other laws of this state. Any report, plan, exemption, or other document prepared pursuant to this subdivision shall be accessible to the public as a public record. A summary of reports, plans, exemptions, or other documents prepared pursuant to this subdivision shall be included in the commissioner's annual report to the Legislature in accordance with Section 911.5.

The commissioner shall adopt regulations to implement this subdivision and shall amend existing regulations to conform to this subdivision on or before September 1, 1988.

For the purposes of this subdivision, an insurance policy to supplement Medicare includes each specific insurance policy type for individual or group coverage, delivered or issued for delivery by any insurer in this state. "Specific insurance policy type" includes a policy with all of the same provisions and coverage specifications.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state or elsewhere and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of

coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance policies to supplement Medicare, disability income policies, basic, catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

(k) This section applies to insurance provided to residents of this state under a group policy, in accordance with applicable laws of this state, including provisions of Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2 regardless of the situs of the contract.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts

issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the requirements of this section.

SEC. 2.10. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days after the receipt of the policy or certificate for purposes of review of the contract at which time the subscriber may return the contract. The return shall void the policy or certificate from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be fully refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care, on and after January 1, 1985, the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(6) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. These standards shall be in addition to and in accordance with applicable laws of this state, including Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies

to supplement Medicare shall not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which have a minimum loss ratio of 60 percent for individual policies and 70 percent for group policies. On or before September 1, 1988, the commissioner shall issue regulations to establish these minimum standards on the basis of policy experience of the reasonable period of time for which rates are paid and coverage is afforded. The time period shall be less than the life of the policy. For the purposes of this section and the regulations issued pursuant to it, insurance policies to supplement Medicare issued as a result of solicitation of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

The commissioner shall require that insurers maintain detailed experience data for policies subject to this section and that insurers make an annual filing with the commissioner disclosing the loss ratio for each policy subject to this section.

If that filing or other information received by the commissioner indicates that the actual loss ratio for a policy is less than the minimum loss ratio established by the commissioner, the commissioner shall require that insurers file and implement a corrective plan. This plan shall include the utilization of premium reductions, dividends, benefit increases, or any combination of these or other methods such that the minimum loss ratio can be reasonably expected to be achieved. Any corrective plan shall be reviewed and approved by the commissioner prior to implementation.

If, in the opinion of the commissioner, a policy's failure to meet the minimum loss ratio requirement is due to unusual reserve fluctuations, economic conditions, or other nonrecurring conditions, the commissioner may exempt the policy from the need for a corrective plan for that year. Any exemption shall be in writing and specify the reasons for the granting of the exemption.

If an insurer fails to file and implement a corrective plan in a timely manner, the commissioner shall withdraw approval of the policy according to the procedures set forth in Section 10293. This remedy shall be in addition to any remedy available in this section or under other laws of this state. Any report, plan, exemption, or other document prepared pursuant to this subdivision shall be accessible to the public as a public record. A summary of reports, plans, exemptions, or other documents prepared pursuant to this subdivision shall be included in the commissioner's annual report to the Legislature in accordance with Section 911.5.

The commissioner shall adopt regulations to implement this

subdivision and shall amend existing regulations to conform to this subdivision on or before September 1, 1988.

For the purposes of this subdivision, an insurance policy to supplement Medicare includes each specific insurance policy type for individual or group coverage, delivered or issued for delivery by any insurer in this state. "Specific insurance policy type" includes a policy with all of the same provisions and coverage specifications.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state or elsewhere and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance

policies to supplement Medicare, disability income policies, basic, catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

(k) This section applies to insurance provided to residents of this state under a group policy, in accordance with applicable laws of this state, including provisions of Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2 regardless of the situs of the contract.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the requirements of this section.

SEC. 2.11. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days after the receipt of the policy or certificate for purposes of review of the contract at which time the subscriber may return the contract. The return shall void the policy or certificate from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be fully refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care in a skilled nursing care facility, dental care, eye glasses, prescription drugs, or hearing

aids, the cover page of the policy and the cover page of the outline of coverage required by subdivision (g) shall contain the statement in no less than 12-point upper case type THIS POLICY DOES NOT COVER (indicate the specific coverage set forth above in this paragraph that is not covered by the policy). Also, the cover page of the policy shall include at least ¼ inch below that statement, the following statement, in no less than 12-point upper case type: THERE MAY BE OTHER EXCLUSIONS IN THIS POLICY, PLEASE REFER TO PAGE (indicate page where other exclusions are described, if other exclusions exist). The requirements of this paragraph apply on and after July 1, 1988.

(6) Until July 1, 1988, if the policy does not cover custodial care, the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(7) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. These standards shall be in addition to and in accordance with applicable laws of this state, including Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies to supplement Medicare shall not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which have a minimum loss ratio of 60 percent for individual policies and 70 percent for group policies. On or before September 1, 1988, the commissioner shall issue regulations to establish these minimum standards on the basis of policy experience of the reasonable period of time for which rates are paid and coverage is afforded. The time period shall be less than the life of the policy. For the purposes of this section and the regulations issued pursuant to it, insurance policies to supplement Medicare issued as

a result of solicitation of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

The commissioner shall require that insurers maintain detailed experience data for policies subject to this section and that insurers make an annual filing with the commissioner disclosing the loss ratio for each policy subject to this section.

If that filing or other information received by the commissioner indicates that the actual loss ratio for a policy is less than the minimum loss ratio established by the commissioner, the commissioner shall require that insurers file and implement a corrective plan. This plan shall include the utilization of premium reductions, dividends, benefit increases, or any combination of these or other methods such that the minimum loss ratio can be reasonably expected to be achieved. Any corrective plan shall be reviewed and approved by the commissioner prior to implementation.

If, in the opinion of the commissioner, a policy's failure to meet the minimum loss ratio requirement is due to unusual reserve fluctuations, economic conditions, or other nonrecurring conditions, the commissioner may exempt the policy from the need for a corrective plan for that year. Any exemption shall be in writing and specify the reasons for the granting of the exemption.

If an insurer fails to file and implement a corrective plan in a timely manner, the commissioner shall withdraw approval of the policy according to the procedures set forth in Section 10293. This remedy shall be in addition to any remedy available in this section or under other laws of this state. Any report, plan, exemption, or other document prepared pursuant to this subdivision shall be accessible to the public as a public record. A summary of reports, plans, exemptions, or other documents prepared pursuant to this subdivision shall be included in the commissioner's annual report to the Legislature in accordance with Section 911.5.

The commissioner shall adopt regulations to implement this subdivision and shall amend existing regulations to conform to this subdivision on or before September 1, 1988.

For the purposes of this subdivision, an insurance policy to supplement Medicare includes each specific insurance policy type for individual or group coverage, delivered or issued for delivery by any insurer in this state. "Specific insurance policy type" includes a policy with all of the same provisions and coverage specifications.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state or elsewhere and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of

the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance policies to supplement Medicare, disability income policies, basic, catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

(k) This section applies to insurance provided to residents of this state under a group policy, in accordance with applicable laws of this state, including provisions of Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2 regardless of the situs of the contract.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or

combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the requirements of this section.

SEC. 2.5. (a) Section 2.03 incorporates changes to Section 10195 of the Insurance Code proposed by this bill and AB 1062. It shall only become operative if: (1) both bills are enacted and become effective January 1, 1988, (2) both bills amend or repeal and add Section 10195 of the Insurance Code, (3) SB 1110 is not enacted or as enacted does not amend that section, (4) AB 1108 is not enacted or as enacted does repeal and add that section, (5) this bill is enacted after AB 1062, in which case Sections 2, 2.05, 2.06, 2.08, 2.09, 2.10, and 2.11 of this bill shall not become operative.

(b) Section 2.05 incorporates changes to Section 10195 of the Insurance Code proposed by this bill and AB 1108. It shall only become operative if: (1) both bills are enacted and become effective January 1, 1988, (2) both bills amend or repeal and add Section 10195 of the Insurance Code, (3) AB 1062 is not enacted or as enacted does not amend that section, (4) SB 1110 is not enacted or as enacted does not amend that section, (5) this bill is enacted after AB 1108, in which case Sections 2, 2.03, 2.06, 2.08, 2.09, 2.10, and 2.11 of this bill shall not become operative, and Section 10195 of the Insurance Code shall not be repealed by, or added by, AB 1108.

(c) Section 2.06 incorporates changes to Section 10195 of the Insurance Code proposed by this bill and SB 1110. It shall only become operative if: (1) both bills are enacted and become effective January 1, 1988, (2) both bills amend or repeal and add Section 10195 of the Insurance Code, (3) AB 1062 is not enacted or as enacted does not amend that section, (4) AB 1108 is not enacted or as enacted does not repeal and add that section, (5) this bill is enacted after SB 1110, in which case Sections 2, 2.03, 2.05, 2.08, 2.09, 2.10, and 2.11 of this bill shall not become operative, and Section 10195 of the Insurance Code shall not be repealed by, or added by, AB 1108.

(d) Section 2.08 incorporates changes to Section 10195 of the Insurance Code proposed by this bill, AB 1062, and AB 1108. It shall only become operative if: (1) all three bills are enacted and become effective January 1, 1988, (2) all three bills amend or repeal and add Section 10195 of the Insurance Code, (3) SB 1110 is not enacted or as enacted does not amend that section, (5) this bill is enacted after AB 1062 and AB 1108, in which case Sections 2, 2.03, 2.05, 2.06, 2.09, 2.10, and 2.11 of this bill shall not become operative, and Section 10195 of the Insurance Code shall not be repealed by, or added by, AB 1108.

(e) Section 2.09 incorporates changes to Section 10195 of the Insurance Code proposed by this bill, AB 1062, and SB 1110. It shall

only become operative if: (1) all three bills are enacted and become effective January 1, 1988, (2) all three bills amend or repeal and add Section 10195 of the Insurance Code, (3) AB 1108 is not enacted or as enacted does not repeal and add that section, (4) this bill is enacted after AB 1062 and SB 1110, in which case Sections 2, 2.03, 2.05, 2.06, 2.08, 2.10, and 2.11 of this bill shall not become operative, and Section 10195 of the Insurance Code shall not be repealed by, or added by, AB 1108.

(f) Section 2.10 incorporates changes to Section 10195 of the Insurance Code proposed by this bill, AB 1108, and SB 1110. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1988, (2) all three bills amend or repeal and add Section 10195 of the Insurance Code, (3) AB 1062 is not enacted or as enacted does not amend that section, (4) this bill is enacted after AB 1108 and SB 1110, in which case Sections 2, 2.03, 2.05, 2.06, 2.08, 2.09, and 2.11 of this bill shall not become operative, and Section 10195 of the Insurance Code shall not be repealed by, or added by, AB 1108.

(g) Section 2.11 incorporates changes to Section 10195 of the Insurance Code proposed by this bill, AB 1062, AB 1108, and SB 1110. It shall only become operative if: (1) all four bills are enacted and become effective January 1, 1988, (2) all four bills amend or repeal and add Section 10195 of the Insurance Code, (3) this bill is enacted last, in which case Sections 2, 2.03, 2.05, 2.06, 2.08, 2.09, and 2.10 of this bill shall not become operative, and Section 10195 of the Insurance Code shall not be repealed by, or added by, AB 1108.

SEC. 3. The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the Insurance Fund to the Insurance Commissioner for the purposes of carrying out this act.

CHAPTER 1496

An act to amend Section 1367.15 of the Health and Safety Code, and to amend Section 10195 of, and to add Sections 10195.4 and 10195.6 to, the Insurance Code, relating to insurance.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 1367.15 of the Health and Safety Code is amended to read:

1367.15. Plan contracts, except the contracts of plans which are federally qualified health maintenance organizations pursuant to Title XIII of the United States Public Health Service Act, which primarily or solely supplement Medicare or are advertised or represented as a supplement to Medicare shall, in addition to

complying with the provisions of this chapter and rules of the commissioner:

(a) Meet the minimum benefit standards as established by the Commissioner of Corporations and Insurance Commissioner jointly.

(b) Provide an examination period of 30 days after the receipt of the contract for purposes of review of the contract at which time the subscriber may return the contract. Such return shall void the policy from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be fully refunded to the owner.

(c) Explain the relationship of the coverage under the contract to the benefits provided by Medicare.

(d) Not be limited to coverage exclusively for a single disease or affliction.

(e) If the plan contract or policy does not cover custodial care, on and after January 1, 1985, the cover page of the outline of coverages required by subdivision (c) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

SEC. 2. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days after the receipt of the policy or certificate for purposes of review of the contract at which time the subscriber may return the contract. Such return shall void the policy or certificate from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be fully refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care, on and after January 1, 1985, the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(6) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. Such standards shall be in addition to and in accordance with applicable laws of this state, including provisions of Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies to supplement Medicare shall not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which are reasonable in relation to the premium charged. The commissioner shall issue reasonable regulations to establish minimum standards for loss ratios of insurance policies to supplement Medicare on the basis of incurred claims experience and earned premiums for the entire period for which rates are computed to provide coverage and in accordance with accepted actuarial principles and practices. The commissioner may establish different loss ratios for group policies of insurance than for individual policies of insurance. For purposes of regulations issued pursuant to this section, insurance polices to supplement Medicare issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the state or elsewhere unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons eligible for Medicare by reasons of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance policies to supplement Medicare, disability income policies, basic, catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

(k) This section applies to insurance provided to residents of this state under a group policy, in accordance with applicable laws of this state, including provisions of Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2 regardless of the situs of the contract.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract

of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the requirements of this section.

SEC. 2.02. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days after the receipt of the policy or certificate for purposes of review of the contract at which time the subscriber may return the contract. The return shall void the policy or certificate from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be fully refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care in a skilled nursing care facility, dental care, eye glasses, prescription drugs, or hearing aids, the cover page of the policy and the cover page of the outline of coverage required by subdivision (g) shall contain the statement in no less than 12-point upper case type THIS POLICY DOES NOT COVER (indicate the specific coverage set forth above in this paragraph that is not covered by the policy). Also, the cover page of the policy shall include at least ¼ inch below that statement, the following statement, in no less than 12-point upper case type: THERE MAY BE OTHER EXCLUSIONS IN THIS POLICY, PLEASE REFER TO PAGE (indicate page where other exclusions are described, if other exclusions exist). The requirements of this paragraph apply on and after July 1, 1988.

(6) Until July 1, 1988, if the policy does not cover custodial care, the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(7) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies

to supplement Medicare. These standards shall be in addition to and in accordance with applicable laws of this state, including Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies to supplement Medicare shall not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which are reasonable in relation to the premium charged. The commissioner shall issue reasonable regulations to establish minimum standards for loss ratios of insurance policies to supplement Medicare on the basis of incurred claims experience and earned premiums for the entire period for which rates are computed to provide coverage and in accordance with accepted actuarial principles and practices. The commissioner may establish different loss ratios for group policies of insurance than for individual policies of insurance. For purposes of regulations issued pursuant to this section, insurance polices to supplement Medicare issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state or elsewhere and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance policies to supplement Medicare, disability income policies, basic, catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

(k) This section applies to insurance provided to residents of this state under a group policy, in accordance with applicable laws of this state, including provisions of Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2 regardless of the situs of the contract.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the

requirements of this section.

SEC. 2.04. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days after the receipt of the policy or certificate for purposes of review of the contract at which time the subscriber may return the contract. The return shall void the policy or certificate from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be fully refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care, on and after January 1, 1985, the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(6) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. These standards shall be in addition to and in accordance with applicable laws of this state, including Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies to supplement Medicare shall not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting

condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which have a minimum loss ratio of 60 percent for individual policies and 70 percent for group policies. On or before September 1, 1988, the commissioner shall issue regulations to establish these minimum standards on the basis of policy experience of the reasonable period of time for which rates are paid and coverage is afforded. The time period shall be less than the life of the policy. For the purposes of this section and the regulations issued pursuant to it, insurance policies to supplement Medicare issued as a result of solicitation of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state or elsewhere and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the

prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance policies to supplement Medicare, disability income policies, basic, catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

(k) This section applies to insurance provided to residents of this state under a group policy, in accordance with applicable laws of this state, including provisions of Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2 regardless of the situs of the contract.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the requirements of this section.

SEC. 2.06. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days after the receipt of the policy or certificate for purposes of review of the contract at which time the subscriber may return the contract. The return shall void the policy or certificate from the beginning, and the parties shall be

in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be fully refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care, on and after January 1, 1985, the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(6) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. These standards shall be in addition to and in accordance with applicable laws of this state, including Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies to supplement Medicare shall not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which are reasonable in relation to the premium charged. The commissioner shall issue reasonable regulations to establish minimum standards for loss ratios of insurance policies to supplement Medicare on the basis of incurred claims experience and earned premiums for the entire period for which rates are computed to provide coverage and in accordance with accepted actuarial principles and practices. The commissioner may establish different loss ratios for group policies of insurance than for individual policies of insurance. For purposes of regulations issued pursuant to this section, insurance polices to supplement Medicare issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast

advertising, shall be considered individual policies.

The commissioner shall require that insurers maintain detailed experience data for policies subject to this section and that insurers make an annual filing with the commissioner disclosing the loss ratio for each policy subject to this section.

If that filing or other information received by the commissioner indicates that the actual loss ratio for a policy is less than the minimum loss ratio established by the commissioner, the commissioner shall require that insurers file and implement a corrective plan. This plan shall include the utilization of premium reductions, dividends, benefit increases, or any combination of these or other methods such that the minimum loss ratio can be reasonably expected to be achieved. Any corrective plan shall be reviewed and approved by the commissioner prior to implementation.

If, in the opinion of the commissioner, a policy's failure to meet the minimum loss ratio requirement is due to unusual reserve fluctuations, economic conditions, or other nonrecurring conditions, the commissioner may exempt the policy from the need for a corrective plan for that year. Any exemption shall be in writing and specify the reasons for the granting of the exemption.

If an insurer fails to file and implement a corrective plan in a timely manner, the commissioner shall withdraw approval of the policy according to the procedures set forth in Section 10293. This remedy shall be in addition to any remedy available in this section or under other laws of this state. Any report, plan, exemption, or other document prepared pursuant to this subdivision shall be accessible to the public as a public record. A summary of reports, plans, exemptions, or other documents prepared pursuant to this subdivision shall be included in the commissioner's annual report to the Legislature in accordance with Section 911.5.

The commissioner shall adopt regulations to implement this subdivision and shall amend existing regulations to conform to this subdivision on or before September 1, 1988.

For the purposes of this subdivision, an insurance policy to supplement Medicare includes each specific insurance policy type for individual or group coverage, delivered or issued for delivery by any insurer in this state. "Specific insurance policy type" includes a policy with all of the same provisions and coverage specifications.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state or elsewhere and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall

appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance policies to supplement Medicare, disability income policies, basic, catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

(k) This section applies to insurance provided to residents of this state under a group policy, in accordance with applicable laws of this state, including provisions of Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2 regardless of the situs of the contract.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or

combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the requirements of this section.

SEC. 2.07. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days after the receipt of the policy or certificate for purposes of review of the contract at which time the subscriber may return the contract. The return shall void the policy or certificate from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be fully refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care in a skilled nursing care facility, dental care, eye glasses, prescription drugs, or hearing aids, the cover page of the policy and the cover page of the outline of coverage required by subdivision (g) shall contain the statement in no less than 12-point upper case type THIS POLICY DOES NOT COVER (indicate the specific coverage set forth above in this paragraph that is not covered by the policy). Also, the cover page of the policy shall include at least ¼ inch below that statement, the following statement, in no less than 12-point upper case type: THERE MAY BE OTHER EXCLUSIONS IN THIS POLICY, PLEASE REFER TO PAGE (indicate page where other exclusions are described, if other exclusions exist). The requirements of this paragraph apply on and after July 1, 1988.

(6) Until July 1, 1988, if the policy does not cover custodial care, the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(7) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of

Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. These standards shall be in addition to and in accordance with applicable laws of this state, including Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies to supplement Medicare shall not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which have a minimum loss ratio of 60 percent for individual policies and 70 percent for group policies. On or before September 1, 1988, the commissioner shall issue regulations to establish these minimum standards on the basis of policy experience of the reasonable period of time for which rates are paid and coverage is afforded. The time period shall be less than the life of the policy. For the purposes of this section and the regulations issued pursuant to it, insurance policies to supplement Medicare issued as a result of solicitation of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state or elsewhere and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided

in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance policies to supplement Medicare, disability income policies, basic, catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

(k) This section applies to insurance provided to residents of this state under a group policy, in accordance with applicable laws of this state, including provisions of Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2 regardless of the situs of the contract.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy

or contract includes provisions which are inconsistent with the requirements of this section.

SEC. 2.09. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days after the receipt of the policy or certificate for purposes of review of the contract at which time the subscriber may return the contract. The return shall void the policy or certificate from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be fully refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care in a skilled nursing care facility, dental care, eye glasses, prescription drugs, or hearing aids, the cover page of the policy and the cover page of the outline of coverage required by subdivision (g) shall contain the statement in no less than 12-point upper case type THIS POLICY DOES NOT COVER (indicate the specific coverage set forth above in this paragraph that is not covered by the policy). Also, the cover page of the policy shall include at least ¼ inch below that statement, the following statement, in no less than 12-point upper case type: THERE MAY BE OTHER EXCLUSIONS IN THIS POLICY, PLEASE REFER TO PAGE (indicate page where other exclusions are described, if other exclusions exist). The requirements of this paragraph apply on and after July 1, 1988.

(6) Until July 1, 1988, if the policy does not cover custodial care, the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(7) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. These standards shall be in addition to and

in accordance with applicable laws of this state, including Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies to supplement Medicare shall not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which are reasonable in relation to the premium charged. The commissioner shall issue reasonable regulations to establish minimum standards for loss ratios of insurance policies to supplement Medicare on the basis of incurred claims experience and earned premiums for the entire period for which rates are computed to provide coverage and in accordance with accepted actuarial principles and practices. The commissioner may establish different loss ratios for group policies of insurance than for individual policies of insurance. For purposes of regulations issued pursuant to this section, insurance polices to supplement Medicare issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

The commissioner shall require that insurers maintain detailed experience data for policies subject to this section and that insurers make an annual filing with the commissioner disclosing the loss ratio for each policy subject to this section.

If that filing or other information received by the commissioner indicates that the actual loss ratio for a policy is less than the minimum loss ratio established by the commissioner, the commissioner shall require that insurers file and implement a corrective plan. This plan shall include the utilization of premium reductions, dividends, benefit increases, or any combination of these or other methods such that the minimum loss ratio can be reasonably expected to be achieved. Any corrective plan shall be reviewed and approved by the commissioner prior to implementation.

If, in the opinion of the commissioner, a policy's failure to meet the minimum loss ratio requirement is due to unusual reserve fluctuations, economic conditions, or other nonrecurring conditions, the commissioner may exempt the policy from the need for a

corrective plan for that year. Any exemption shall be in writing and specify the reasons for the granting of the exemption.

If an insurer fails to file and implement a corrective plan in a timely manner, the commissioner shall withdraw approval of the policy according to the procedures set forth in Section 10293. This remedy shall be in addition to any remedy available in this section or under other laws of this state. Any report, plan, exemption, or other document prepared pursuant to this subdivision shall be accessible to the public as a public record. A summary of reports, plans, exemptions, or other documents prepared pursuant to this subdivision shall be included in the commissioner's annual report to the Legislature in accordance with Section 911.5.

The commissioner shall adopt regulations to implement this subdivision and shall amend existing regulations to conform to this subdivision on or before September 1, 1988.

For the purposes of this subdivision, an insurance policy to supplement Medicare includes each specific insurance policy type for individual or group coverage, delivered or issued for delivery by any insurer in this state. "Specific insurance policy type" includes a policy with all of the same provisions and coverage specifications.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state or elsewhere and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require

by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance policies to supplement Medicare, disability income policies, basic, catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

(k) This section applies to insurance provided to residents of this state under a group policy, in accordance with applicable laws of this state, including provisions of Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2 regardless of the situs of the contract.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the requirements of this section.

SEC. 2.10. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law,

provide an examination period of 30 days after the receipt of the policy or certificate for purposes of review of the contract at which time the subscriber may return the contract. The return shall void the policy or certificate from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be fully refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care, on and after January 1, 1985, the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(6) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. These standards shall be in addition to and in accordance with applicable laws of this state, including Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies to supplement Medicare shall not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which have a minimum loss ratio of 60 percent for individual policies and 70 percent for group policies. On or before September 1, 1988, the commissioner shall issue regulations to establish these minimum standards on the basis of policy experience of the reasonable period of time for which rates are paid and coverage is afforded. The time period shall be less than the life of the policy. For the purposes of this section and the regulations issued pursuant to it, insurance policies to supplement Medicare issued as

a result of solicitation of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

The commissioner shall require that insurers maintain detailed experience data for policies subject to this section and that insurers make an annual filing with the commissioner disclosing the loss ratio for each policy subject to this section.

If that filing or other information received by the commissioner indicates that the actual loss ratio for a policy is less than the minimum loss ratio established by the commissioner, the commissioner shall require that insurers file and implement a corrective plan. This plan shall include the utilization of premium reductions, dividends, benefit increases, or any combination of these or other methods such that the minimum loss ratio can be reasonably expected to be achieved. Any corrective plan shall be reviewed and approved by the commissioner prior to implementation.

If, in the opinion of the commissioner, a policy's failure to meet the minimum loss ratio requirement is due to unusual reserve fluctuations, economic conditions, or other nonrecurring conditions, the commissioner may exempt the policy from the need for a corrective plan for that year. Any exemption shall be in writing and specify the reasons for the granting of the exemption.

If an insurer fails to file and implement a corrective plan in a timely manner, the commissioner shall withdraw approval of the policy according to the procedures set forth in Section 10293. This remedy shall be in addition to any remedy available in this section or under other laws of this state. Any report, plan, exemption, or other document prepared pursuant to this subdivision shall be accessible to the public as a public record. A summary of reports, plans, exemptions, or other documents prepared pursuant to this subdivision shall be included in the commissioner's annual report to the Legislature in accordance with Section 911.5.

The commissioner shall adopt regulations to implement this subdivision and shall amend existing regulations to conform to this subdivision on or before September 1, 1988.

For the purposes of this subdivision, an insurance policy to supplement Medicare includes each specific insurance policy type for individual or group coverage, delivered or issued for delivery by any insurer in this state. "Specific insurance policy type" includes a policy with all of the same provisions and coverage specifications.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state or elsewhere and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of

the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance policies to supplement Medicare, disability income policies, basic, catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

(k) This section applies to insurance provided to residents of this state under a group policy, in accordance with applicable laws of this state, including provisions of Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2 regardless of the situs of the contract.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or

combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the requirements of this section.

SEC. 2.11. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days after the receipt of the policy or certificate for purposes of review of the contract at which time the subscriber may return the contract. The return shall void the policy or certificate from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be fully refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care in a skilled nursing care facility, dental care, eye glasses, prescription drugs, or hearing aids, the cover page of the policy and the cover page of the outline of coverage required by subdivision (g) shall contain the statement in no less than 12-point upper case type THIS POLICY DOES NOT COVER (indicate the specific coverage set forth above in this paragraph that is not covered by the policy). Also, the cover page of the policy shall include at least ¼ inch below that statement, the following statement, in no less than 12-point upper case type: THERE MAY BE OTHER EXCLUSIONS IN THIS POLICY, PLEASE REFER TO PAGE (indicate page where other exclusions are described, if other exclusions exist). The requirements of this paragraph apply on and after July 1, 1988.

(6) Until July 1, 1988, if the policy does not cover custodial care, the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(7) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. These standards shall be in addition to and in accordance with applicable laws of this state, including Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies to supplement Medicare shall not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which have a minimum loss ratio of 60 percent for individual policies and 70 percent for group policies. On or before September 1, 1988, the commissioner shall issue regulations to establish these minimum standards on the basis of policy experience of the reasonable period of time for which rates are paid and coverage is afforded. The time period shall be less than the life of the policy. For the purposes of this section and the regulations issued pursuant to it, insurance policies to supplement Medicare issued as a result of solicitation of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

The commissioner shall require that insurers maintain detailed experience data for policies subject to this section and that insurers make an annual filing with the commissioner disclosing the loss ratio for each policy subject to this section.

If that filing or other information received by the commissioner indicates that the actual loss ratio for a policy is less than the minimum loss ratio established by the commissioner, the commissioner shall require that insurers file and implement a corrective plan. This plan shall include the utilization of premium reductions, dividends, benefit increases, or any combination of these or other methods such that the minimum loss ratio can be reasonably expected to be achieved. Any corrective plan shall be reviewed and approved by the commissioner prior to implementation.

If, in the opinion of the commissioner, a policy's failure to meet the minimum loss ratio requirement is due to unusual reserve fluctuations, economic conditions, or other nonrecurring conditions, the commissioner may exempt the policy from the need for a corrective plan for that year. Any exemption shall be in writing and specify the reasons for the granting of the exemption.

If an insurer fails to file and implement a corrective plan in a timely manner, the commissioner shall withdraw approval of the policy according to the procedures set forth in Section 10293. This remedy shall be in addition to any remedy available in this section or under other laws of this state. Any report, plan, exemption, or other document prepared pursuant to this subdivision shall be accessible to the public as a public record. A summary of reports, plans, exemptions, or other documents prepared pursuant to this subdivision shall be included in the commissioner's annual report to the Legislature in accordance with Section 911.5.

The commissioner shall adopt regulations to implement this subdivision and shall amend existing regulations to conform to this subdivision on or before September 1, 1988.

For the purposes of this subdivision, an insurance policy to supplement Medicare includes each specific insurance policy type for individual or group coverage, delivered or issued for delivery by any insurer in this state. "Specific insurance policy type" includes a policy with all of the same provisions and coverage specifications.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state or elsewhere and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons

eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance policies to supplement Medicare, disability income policies, basic, catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

(k) This section applies to insurance provided to residents of this state under a group policy, in accordance with applicable laws of this state, including provisions of Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2 regardless of the situs of the contract.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the requirements of this section.

SEC. 3. Section 10195.4 is added to the Insurance Code, to read:

10195.4. The commissioner shall review the organization of the Medicare supplement policies and prescribe, by regulation, the format of Medicare supplement policies and of certificates issued under group insurance policies to supplement Medicare. For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions and

shall include the following:

(a) Principal benefits and coverage provided in the policy.

(b) Computation of benefits.

(c) Exceptions, reductions, and limitations contained in the policy.

(d) Renewal provisions, including any reservation allowed for the insurer to change premiums.

(e) Readability, which shall include, as one of the factors, readability in terms of a minimum score on the Flesch reading ease test.

It is not the intent of this section to require that all policies be identical, but rather that all policies comply with the prescribed format.

This section applies to insurance provided to residents of this state under a group policy, in accordance with applicable laws of this state, including provisions of Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

This section shall become operative July 1, 1988.

SEC. 4. Section 10195.6 is added to the Insurance Code, to read:

10195.6. A television, radio, mail, or newspaper advertisement which is designed to produce leads either by use of a coupon or a request to write to the insurer or a subsequent advertisement prior to contact in regards to disability insurance shall include information disclosing that an agent may contact the applicant if that is the fact.

SEC. 5. (a) Section 2.02 incorporates changes to Section 10195 of the Insurance Code proposed by this bill and AB 1062. It shall only become operative if: (1) both bills are enacted and become effective January 1, 1988, (2) both bills amend or repeal and add Section 10195 of the Insurance Code, (3) SB 1467 is not enacted, or, as enacted, does not amend that section, (4) AB 1108 is not enacted, or, as enacted, does not repeal and add that section, (5) this bill is enacted after AB 1062, in which case Sections 2, 2.04, 2.06, 2.07, 2.09, 2.10, and 2.11 of this bill shall not become operative, and Section 10195 of the Insurance Code shall not be repealed by, or added by, AB 1108.

(b) Section 2.04 incorporates changes to Section 10195 of the Insurance Code proposed by this bill and AB 1108. It shall only become operative if: (1) both bills are enacted and become effective January 1, 1988, (2) both bills amend or repeal and add Section 10195 of the Insurance Code, (3) AB 1062 is not enacted, or, as enacted, does not amend that section, (4) SB 1467 is not enacted, or, as enacted, does not amend that section, (5) this bill is enacted after AB 1108, in which case Sections 2, 2.02, 2.06, 2.07, 2.09, 2.10, and 2.11 of this bill shall not become operative, and Section 10195 of the Insurance Code shall not be repealed by, or added by, AB 1108.

(c) Section 2.06 incorporates changes to Section 10195 of the Insurance Code proposed by this bill and SB 1467. It shall only become operative if: (1) both bills are enacted and become effective January 1, 1988, (2) both bills amend or repeal and add Section 10195

of the Insurance Code, (3) AB 1062 is not enacted, or, as enacted, does not amend that section, (4) AB 1108 is not enacted, or, as enacted, does not repeal and add that section, (5) this bill is enacted after SB 1467, in which case Sections 2, 2.02, 2.04, 2.07, 2.09, 2.10, and 2.11 of this bill shall not become operative, and Section 10195 of the Insurance Code shall not be repealed by, or added by, AB 1108.

(d) Section 2.07 incorporates changes to Section 10195 of the Insurance Code proposed by this bill, AB 1062, and AB 1108. It shall only become operative if: (1) all three bills are enacted and become effective January 1, 1988, (2) all three bills amend or repeal and add Section 10195 of the Insurance Code, (3) SB 1467 is not enacted, or, as enacted, does not amend that section, (4) this bill is enacted after AB 1062 and AB 1108, in which case Sections 2, 2.02, 2.04, 2.06, 2.09, 2.10, and 2.11 of this bill shall not become operative, and Section 10195 of the Insurance Code shall not be repealed by, or added by, AB 1108.

(e) Section 2.09 incorporates changes to Section 10195 of the Insurance Code proposed by this bill, AB 1062, and SB 1467. It shall only become operative if: (1) all three bills are enacted and become effective January 1, 1988, (2) all three bills amend or repeal and add Section 10195 of the Insurance Code, (3) AB 1108 is not enacted, or, as enacted, does not repeal and add that section, (4) this bill is enacted after AB 1062 and SB 1467, in which case Sections 2, 2.02, 2.04, 2.06, 2.07, 2.10, and 2.11 of this bill shall not become operative, and Section 10195 of the Insurance Code shall not be repealed by, or added by, AB 1108.

(f) Section 2.10 incorporates changes to Section 10195 of the Insurance Code proposed by this bill, AB 1108, and SB 1467. It shall only become operative if: (1) all three bills are enacted and become effective January 1, 1988, (2) all three bills amend or repeal and add Section 10195 of the Insurance Code, (3) AB 1062 is not enacted, or, as enacted, does not amend that section, (5) this bill is enacted after AB 1108 and SB 1467, in which case Sections 2, 2.02, 2.04, 2.06, 2.07, 2.09, and 2.11 of this bill shall not become operative, and Section 10195 of the Insurance Code shall not be repealed by, or added by, AB 1108.

(g) Section 2.11 incorporates changes to Section 10195 of the Insurance Code proposed by this bill, AB 1062, AB 1108, and SB 1467. It shall only become operative if: (1) all four bills are enacted and become effective January 1, 1988, (2) all four bills amend or repeal and add Section 10195 of the Insurance Code, (3) this bill is enacted last, in which case Sections 2, 2.02, 2.04, 2.06, 2.07, 2.09, and 2.10 of this bill shall not become operative, and Section 10195 of the Insurance Code shall not be repealed by, or added by, AB 1108.

CHAPTER 1497

An act to amend Section 10195 of the Insurance Code, relating to insurance.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days for purposes of review of the contract at which time the subscriber may return the contract. Such return shall void the policy from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care in a skilled nursing care facility, dental care, eyeglasses, prescription drugs, or hearing aids, the cover page of the policy and the cover page of the outline of coverage required by subdivision (g) shall contain the statement in no less than 12-point upper case type: THIS POLICY DOES NOT COVER (indicate the specific coverage set forth above in this paragraph that is not covered by the policy). Also, the cover page of the policy shall include at least ¼ inch below that statement, the following statement, in no less than 12-point upper case type: THERE MAY BE OTHER EXCLUSIONS IN THIS POLICY, PLEASE REFER TO PAGE (indicate page where other exclusions are described, if other exclusions exist). The requirements of this paragraph apply on and after July 1, 1988.

(6) Until July 1, 1988, if the policy does not cover custodial care the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING

CARE FACILITY.

(7) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. Such standards shall be in addition to and in accordance with applicable laws of this state, including subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies to supplement Medicare shall not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which are reasonable in relation to the premium charged. The commissioner shall issue reasonable regulations to establish minimum standards for loss ratios of insurance policies to supplement Medicare on the basis of incurred claims experience and earned premiums for the entire period for which rates are computed to provide coverage and in accordance with accepted actuarial principles and practices. The commissioner may establish different loss ratios for group policies of insurance than for individual policies of insurance. For purposes of regulations issued pursuant to this section, insurance policies to supplement Medicare issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall

appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons eligible for Medicare by reasons of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance policies to supplement Medicare, disability income policies, basic, catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the

requirements of this section.

SEC. 1.01. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days for purposes of review of the contract at which time the subscriber may return the contract. The return shall void the policy from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care in a skilled nursing care facility, dental care, eyeglasses, prescription drugs, or hearing aids, the cover page of the policy and the cover page of the outline of coverage required by subdivision (g) shall contain the statement in no less than 12-point upper case type THIS POLICY DOES NOT COVER (indicate the specific coverage set forth above in this paragraph that is not covered by the policy). Also, the cover page of the policy shall include at least ¼ inch below that statement, the following statement, in no less than 12-point upper case type: THERE MAY BE OTHER EXCLUSIONS IN THIS POLICY, PLEASE REFER TO PAGE (indicate page where other exclusions are described, if other exclusions exist). The requirements of this paragraph apply on and after July 1, 1988.

(6) Until July 1, 1988, if the policy does not cover custodial care, the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(7) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. These standards shall be in addition to and in accordance with applicable laws of this state, including subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section

10600) of Part 2 of Division 2.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies to supplement Medicare shall not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which have a minimum loss ratio of 60 percent for individual policies and 70 percent for group policies. On or before September 1, 1988, the commissioner shall issue regulations to establish these minimum standards on the basis of policy experience of the reasonable period of time for which rates are paid and coverage is afforded. The time period shall be less than the life of the policy. For the purposes of this section and the regulations issued pursuant to it, insurance policies to supplement Medicare issued as a result of solicitation of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted

to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance policies to supplement Medicare, disability income policies, basic, catastrophic, or major-medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the requirements of this section.

SEC. 1.02. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the

Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days after the receipt of the policy or certificate for purposes of review of the contract at which time the subscriber may return the contract. The return shall void the policy or certificate from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be fully refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care in a skilled nursing care facility, dental care, eyeglasses, prescription drugs, or hearing aids, the cover page of the policy and the cover page of the outline of coverage required by subdivision (g) shall contain the statement in no less than 12-point upper case type THIS POLICY DOES NOT COVER (indicate the specific coverage set forth above in this paragraph that is not covered by the policy). Also, the cover page of the policy shall include at least ¼ inch below that statement, the following statement, in no less than 12-point upper case type: THERE MAY BE OTHER EXCLUSIONS IN THIS POLICY, PLEASE REFER TO PAGE (indicate page where other exclusions are described, if other exclusions exist). The requirements of this paragraph apply on and after July 1, 1988.

(6) Until July 1, 1988, if the policy does not cover custodial care, the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(7) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. These standards shall be in addition to and in accordance with applicable laws of this state, including Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies to supplement Medicare shall not deny a claim for losses incurred

more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which are reasonable in relation to the premium charged. The commissioner shall issue reasonable regulations to establish minimum standards for loss ratios of insurance policies to supplement Medicare on the basis of incurred claims experience and earned premiums for the entire period for which rates are computed to provide coverage and in accordance with accepted actuarial principles and practices. The commissioner may establish different loss ratios for group policies of insurance than for individual policies of insurance. For purposes of regulations issued pursuant to this section, insurance polices to supplement Medicare issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state or elsewhere and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require

by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance policies to supplement Medicare, disability income policies, basic, catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

(k) This section applies to insurance provided to residents of this state under a group policy, in accordance with applicable laws of this state, including provisions of Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2 regardless of the situs of the contract.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the requirements of this section.

SEC. 1.03. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law,

provide an examination period of 30 days for purposes of review of the contract at which time the subscriber may return the contract. The return shall void the policy from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care in a skilled nursing care facility, dental care, eyeglasses, prescription drugs, or hearing aids, the cover page of the policy and the cover page of the outline of coverage required by subdivision (g) shall contain the statement in no less than 12-point upper case type THIS POLICY DOES NOT COVER (indicate the specific coverage set forth above in this paragraph that is not covered by the policy). Also, the cover page of the policy shall include at least ¼ inch below that statement, the following statement, in no less than 12-point upper case type: THERE MAY BE OTHER EXCLUSIONS IN THIS POLICY, PLEASE REFER TO PAGE (indicate page where other exclusions are described, if other exclusions exist). The requirements of this paragraph apply on and after July 1, 1988.

(6) Until July 1, 1988, if the policy does not cover custodial care, the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(7) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. These standards shall be in addition to and in accordance with applicable laws of this state, including subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies to supplement Medicare shall not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received

from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which are reasonable in relation to the premium charged. The commissioner shall issue reasonable regulations to establish minimum standards for loss ratios of insurance policies to supplement Medicare on the basis of incurred claims experience and earned premiums for the entire period for which rates are computed to provide coverage and in accordance with accepted actuarial principles and practices. The commissioner may establish different loss ratios for group policies of insurance than for individual policies of insurance. For purposes of regulations issued pursuant to this section, insurance polices to supplement Medicare issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

The commissioner shall require that insurers maintain detailed experience data for policies subject to this section and that insurers make an annual filing with the commissioner disclosing the loss ratio for each policy subject to this section.

If that filing or other information received by the commissioner indicates that the actual loss ratio for a policy is less than the minimum loss ratio established by the commissioner, the commissioner shall require that insurers file and implement a corrective plan. This plan shall include the utilization of premium reductions, dividends, benefit increases, or any combination of these or other methods such that the minimum loss ratio can be reasonably expected to be achieved. Any corrective plan shall be reviewed and approved by the commissioner prior to implementation.

If, in the opinion of the commissioner, a policy's failure to meet the minimum loss ratio requirement is due to unusual reserve fluctuations, economic conditions, or other nonrecurring conditions, the commissioner may exempt the policy from the need for a corrective plan for that year. Any exemption shall be in writing and specify the reasons for the granting of the exemption.

If an insurer fails to file and implement a corrective plan in a timely manner, the commissioner shall withdraw approval of the policy according to the procedures set forth in Section 10293. This remedy shall be in addition to any remedy available in this section or under other laws of this state. Any report, plan, exemption, or other document prepared pursuant to this subdivision shall be accessible to the public as a public record. A summary of reports, plans, exemptions, or other documents prepared pursuant to this subdivision shall be included in the commissioner's annual report to the Legislature in accordance with Section 911.5.

The commissioner shall adopt regulations to implement this subdivision and shall amend existing regulations to conform to this subdivision on or before September 1, 1988.

For the purposes of this subdivision, an insurance policy to

supplement Medicare includes each specific insurance policy type for individual or group coverage, delivered or issued for delivery by any insurer in this state. "Specific insurance policy type" includes a policy with all of the same provisions and coverage specifications.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance policies to supplement Medicare, disability income policies, basic, catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the requirements of this section.

SEC. 1.07. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days after the receipt of the policy or certificate for purposes of review of the contract at which time the subscriber may return the contract. The return shall void the policy or certificate from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be fully refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care in a skilled nursing care facility, dental care, eyeglasses, prescription drugs, or hearing aids, the cover page of the policy and the cover page of the outline of coverage required by subdivision (g) shall contain the statement in no less than 12-point upper case type THIS POLICY DOES NOT COVER (indicate the specific coverage set forth above in this paragraph that is not covered by the policy). Also, the cover page of the policy shall include at least ¼ inch below that statement, the following statement, in no less than 12-point upper case type: THERE MAY BE OTHER EXCLUSIONS IN THIS POLICY,

PLEASE REFER TO PAGE (indicate page where other exclusions are described, if other exclusions exist). The requirements of this paragraph apply on and after July 1, 1988.

(6) Until July 1, 1988, if the policy does not cover custodial care, the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(7) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. These standards shall be in addition to and in accordance with applicable laws of this state, including Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies to supplement Medicare shall not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which have a minimum loss ratio of 60 percent for individual policies and 70 percent for group policies. On or before September 1, 1988, the commissioner shall issue regulations to establish these minimum standards on the basis of policy experience of the reasonable period of time for which rates are paid and coverage is afforded. The time period shall be less than the life of the policy. For the purposes of this section and the regulations issued pursuant to it, insurance policies to supplement Medicare issued as a result of solicitation of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state or elsewhere and no certificate shall be delivered pursuant to

a group Medicare supplemental policy delivered or issued for delivery in the state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance policies to supplement Medicare, disability income policies, basic, catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

(k) This section applies to insurance provided to residents of this state under a group policy, in accordance with applicable laws of this state, including provisions of Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section

10600) of Part 2 of Division 2 regardless of the situs of the contract.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the requirements of this section.

SEC. 1.08. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days for purposes of review of the contract at which time the subscriber may return the contract. The return shall void the policy from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care in a skilled nursing care facility, dental care, eyeglasses, prescription drugs, or hearing aids, the cover page of the policy and the cover page of the outline of coverage required by subdivision (g) shall contain the statement in no less than 12-point upper case type THIS POLICY DOES NOT COVER (indicate the specific coverage set forth above in this paragraph that is not covered by the policy). Also, the cover page of the policy shall include at least ¼ inch below that statement, the following statement, in no less than 12-point upper case type: THERE MAY BE OTHER EXCLUSIONS IN THIS POLICY, PLEASE REFER TO PAGE (indicate page where other exclusions are described, if other exclusions exist). The requirements of this paragraph apply on and after July 1, 1988.

(6) Until July 1, 1988, if the policy does not cover custodial care, the cover page of the outline of coverage required by subdivision (g)

shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(7) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. These standards shall be in addition to and in accordance with applicable laws of this state, including subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies to supplement Medicare shall not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which have a minimum loss ratio of 60 percent for individual policies and 70 percent for group policies. On or before September 1, 1988, the commissioner shall issue regulations to establish these minimum standards on the basis of policy experience of the reasonable period of time for which rates are paid and coverage is afforded. The time period shall be less than the life of the policy. For the purposes of this section and the regulations issued pursuant to it, insurance policies to supplement Medicare issued as a result of solicitation of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

The commissioner shall require that insurers maintain detailed experience data for policies subject to this section and that insurers make an annual filing with the commissioner disclosing the loss ratio for each policy subject to this section.

If that filing or other information received by the commissioner indicates that the actual loss ratio for a policy is less than the minimum loss ratio established by the commissioner, the commissioner shall require that insurers file and implement a corrective plan. This plan shall include the utilization of premium reductions, dividends, benefit increases, or any combination of these or other methods such that the minimum loss ratio can be reasonably

expected to be achieved. Any corrective plan shall be reviewed and approved by the commissioner prior to implementation.

If, in the opinion of the commissioner, a policy's failure to meet the minimum loss ratio requirement is due to unusual reserve fluctuations, economic conditions, or other nonrecurring conditions, the commissioner may exempt the policy from the need for a corrective plan for that year. Any exemption shall be in writing and specify the reasons for the granting of the exemption.

If an insurer fails to file and implement a corrective plan in a timely manner, the commissioner shall withdraw approval of the policy according to the procedures set forth in Section 10293. This remedy shall be in addition to any remedy available in this section or under other laws of this state. Any report, plan, exemption, or other document prepared pursuant to this subdivision shall be accessible to the public as a public record. A summary of reports, plans, exemptions, or other documents prepared pursuant to this subdivision shall be included in the commissioner's annual report to the Legislature in accordance with Section 911.5.

The commissioner shall adopt regulations to implement this subdivision and shall amend existing regulations to conform to this subdivision on or before September 1, 1988.

For the purposes of this subdivision, an insurance policy to supplement Medicare includes each specific insurance policy type for individual or group coverage, delivered or issued for delivery by any insurer in this state. "Specific insurance policy type" includes a policy with all of the same provisions and coverage specifications.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance policies to supplement Medicare, disability income policies, basic, catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the requirements of this section.

SEC. 1.09. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days after the receipt of the policy or certificate for purposes of review of the contract at which time the subscriber may return the contract. The return shall void the policy or certificate from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be fully refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care in a skilled nursing care facility, dental care, eyeglasses, prescription drugs, or hearing aids, the cover page of the policy and the cover page of the outline of coverage required by subdivision (g) shall contain the statement in no less than 12-point upper case type THIS POLICY DOES NOT COVER (indicate the specific coverage set forth above in this paragraph that is not covered by the policy). Also, the cover page of the policy shall include at least ¼ inch below that statement, the following statement, in no less than 12-point upper case type: THERE MAY BE OTHER EXCLUSIONS IN THIS POLICY, PLEASE REFER TO PAGE (indicate page where other exclusions are described, if other exclusions exist). The requirements of this paragraph apply on and after July 1, 1988.

(6) Until July 1, 1988, if the policy does not cover custodial care, the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(7) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. These standards shall be in addition to and in accordance with applicable laws of this state, including Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies to supplement Medicare shall not deny a claim for losses incurred more than six months from the effective date of coverage for a

preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which are reasonable in relation to the premium charged. The commissioner shall issue reasonable regulations to establish minimum standards for loss ratios of insurance policies to supplement Medicare on the basis of incurred claims experience and earned premiums for the entire period for which rates are computed to provide coverage and in accordance with accepted actuarial principles and practices. The commissioner may establish different loss ratios for group policies of insurance than for individual policies of insurance. For purposes of regulations issued pursuant to this section, insurance polices to supplement Medicare issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

The commissioner shall require that insurers maintain detailed experience data for policies subject to this section and that insurers make an annual filing with the commissioner disclosing the loss ratio for each policy subject to this section.

If that filing or other information received by the commissioner indicates that the actual loss ratio for a policy is less than the minimum loss ratio established by the commissioner, the commissioner shall require that insurers file and implement a corrective plan. This plan shall include the utilization of premium reductions, dividends, benefit increases, or any combination of these or other methods such that the minimum loss ratio can be reasonably expected to be achieved. Any corrective plan shall be reviewed and approved by the commissioner prior to implementation.

If, in the opinion of the commissioner, a policy's failure to meet the minimum loss ratio requirement is due to unusual reserve fluctuations, economic conditions, or other nonrecurring conditions, the commissioner may exempt the policy from the need for a corrective plan for that year. Any exemption shall be in writing and specify the reasons for the granting of the exemption.

If an insurer fails to file and implement a corrective plan in a timely manner, the commissioner shall withdraw approval of the policy according to the procedures set forth in Section 10293. This remedy shall be in addition to any remedy available in this section or under other laws of this state. Any report, plan, exemption, or other document prepared pursuant to this subdivision shall be accessible to the public as a public record. A summary of reports, plans, exemptions, or other documents prepared pursuant to this subdivision shall be included in the commissioner's annual report to the Legislature in accordance with Section 911.5.

The commissioner shall adopt regulations to implement this

subdivision and shall amend existing regulations to conform to this subdivision on or before September 1, 1988.

For the purposes of this subdivision, an insurance policy to supplement Medicare includes each specific insurance policy type for individual or group coverage, delivered or issued for delivery by any insurer in this state. "Specific insurance policy type" includes a policy with all of the same provisions and coverage specifications.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state or elsewhere and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance

policies to supplement Medicare, disability income policies, basic, catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

(k) This section applies to insurance provided to residents of this state under a group policy, in accordance with applicable laws of this state, including provisions of Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2 regardless of the situs of the contract.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the requirements of this section.

SEC. 1.11. Section 10195 of the Insurance Code is amended to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

(a) Insurance policies to supplement Medicare shall:

(1) Meet the minimum benefit standards as established by the Insurance Commissioner.

(2) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days after the receipt of the policy or certificate for purposes of review of the contract at which time the subscriber may return the contract. The return shall void the policy or certificate from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be fully refunded to the owner.

(3) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(4) Not be limited to coverage exclusively for a single disease or affliction.

(5) If the policy does not cover custodial care in a skilled nursing care facility, dental care, eye glasses, prescription drugs, or hearing

aids, the cover page of the policy and the cover page of the outline of coverage required by subdivision (g) shall contain the statement in no less than 12-point upper case type THIS POLICY DOES NOT COVER (indicate the specific coverage set forth above in this paragraph that is not covered by the policy). Also, the cover page of the policy shall include at least ¼ inch below that statement, the following statement, in no less than 12-point upper case type: THERE MAY BE OTHER EXCLUSIONS IN THIS POLICY, PLEASE REFER TO PAGE (indicate page where other exclusions are described, if other exclusions exist). The requirements of this paragraph apply on and after July 1, 1988.

(6) Until July 1, 1988, if the policy does not cover custodial care, the cover page of the outline of coverage required by subdivision (g) shall contain the statement in upper case type: THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.

(7) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(b) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of insurance policies to supplement Medicare. These standards shall be in addition to and in accordance with applicable laws of this state, including Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

(c) The commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under insurance policies to supplement Medicare.

(d) Notwithstanding any other provision of law, insurance policies to supplement Medicare shall not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. A policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Insurance policies to supplement Medicare shall return to policyholders benefits which have a minimum loss ratio of 60 percent for individual policies and 70 percent for group policies. On or before September 1, 1988, the commissioner shall issue regulations to establish these minimum standards on the basis of policy experience of the reasonable period of time for which rates are paid and coverage is afforded. The time period shall be less than the life of the policy. For the purposes of this section and the regulations issued pursuant to it, insurance policies to supplement Medicare issued as

a result of solicitation of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be considered individual policies.

The commissioner shall require that insurers maintain detailed experience data for policies subject to this section and that insurers make an annual filing with the commissioner disclosing the loss ratio for each policy subject to this section.

If that filing or other information received by the commissioner indicates that the actual loss ratio for a policy is less than the minimum loss ratio established by the commissioner, the commissioner shall require that insurers file and implement a corrective plan. This plan shall include the utilization of premium reductions, dividends, benefit increases, or any combination of these or other methods such that the minimum loss ratio can be reasonably expected to be achieved. Any corrective plan shall be reviewed and approved by the commissioner prior to implementation.

If, in the opinion of the commissioner, a policy's failure to meet the minimum loss ratio requirement is due to unusual reserve fluctuations, economic conditions, or other nonrecurring conditions, the commissioner may exempt the policy from the need for a corrective plan for that year. Any exemption shall be in writing and specify the reasons for the granting of the exemption.

If an insurer fails to file and implement a corrective plan in a timely manner, the commissioner shall withdraw approval of the policy according to the procedures set forth in Section 10293. This remedy shall be in addition to any remedy available in this section or under other laws of this state. Any report, plan, exemption, or other document prepared pursuant to this subdivision shall be accessible to the public as a public record. A summary of reports, plans, exemptions, or other documents prepared pursuant to this subdivision shall be included in the commissioner's annual report to the Legislature in accordance with Section 911.5.

The commissioner shall adopt regulations to implement this subdivision and shall amend existing regulations to conform to this subdivision on or before September 1, 1988.

For the purposes of this subdivision, an insurance policy to supplement Medicare includes each specific insurance policy type for individual or group coverage, delivered or issued for delivery by any insurer in this state. "Specific insurance policy type" includes a policy with all of the same provisions and coverage specifications.

(f) In addition to Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, and in order to provide for full and fair disclosure in the sale of Medicare supplemental policies, no insurance policy to supplement Medicare shall be delivered or issued for delivery in this state or elsewhere and no certificate shall be delivered pursuant to a group Medicare supplemental policy delivered or issued for delivery in the state unless an outline of coverage is delivered to the applicant at the time application is made.

(g) The commissioner shall prescribe the format and content of

the outline of coverage required by subdivision (f). For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the exceptions, reductions, and limitations contained in the policy.

(3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(h) The commissioner may prescribe by regulation a standard form, and the contents of, an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(i) The commissioner may promulgate reasonable regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not insurance policies to supplement Medicare, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than insurance policies to supplement Medicare, disability income policies, basic, catastrophic, or major medical expense policies or single premium, nonrenewable policies.

(j) The commissioner may promulgate reasonable regulations to govern the full and fair disclosure of information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

(k) This section applies to insurance provided to residents of this state under a group policy, in accordance with applicable laws of this state, including provisions of Sections 10290 and 10291, subdivision (b) of Section 10291.5, and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2 regardless of the situs of the contract.

This section shall not apply to policies issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or

combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.

This section shall not apply to individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when the group or individual policy or contract includes provisions which are inconsistent with the requirements of this section.

SEC. 1.5. (a) Section 1.01 incorporates changes to Section 10195 of the Insurance Code proposed by this bill and AB 1108. It shall only become operative if (1) both bills are enacted and become effective January 1, 1988, (2) both bills amend or repeal and add Section 10195 of the Insurance Code, (3) SB 1110 is not enacted or as enacted does not amend that section, (4) SB 1467 is not enacted or as enacted does not amend that section, (5) this bill is enacted after AB 1108, in which case Sections 1, 1.02, 1.03, 1.07, 1.08, 1.09, and 1.11 of this bill shall not become operative, and Section 10195 of the Insurance Code shall not be repealed by, or added by, AB 1108.

(b) Section 1.02 incorporates changes to Section 10195 of the Insurance Code proposed by this bill and SB 1110. It shall only become operative if (1) both bills are enacted and become effective January 1, 1988, (2) both bills amend or repeal and add Section 10195 of the Insurance Code, (3) SB 1467 is not enacted or as enacted does not amend that section, (4) AB 1108 is not enacted or as enacted does not repeal and add that section, (5) this bill is enacted after SB 1110, in which case Sections 1, 1.01, 1.03, 1.07, 1.08, 1.09, and 1.11 of this bill shall not become operative, and Section 10195 of the Insurance Code shall not be repealed by, or added by, AB 1108.

(c) Section 1.03 incorporates changes to Section 10195 of the Insurance Code proposed by this bill and SB 1467. It shall only become operative if (1) both bills are enacted and become effective January 1, 1988, (2) both bills amend or repeal and add Section 10195 of the Insurance Code, (3) SB 1110 is not enacted or as enacted does not amend that section, (4) AB 1108 is not enacted or as enacted does not repeal and add that section, (5) this bill is enacted after SB 1467, in which case Sections 1, 1.01, 1.02, 1.07, 1.08, 1.09, and 1.11 of this bill shall not become operative, and Section 10195 of the Insurance Code shall not be repealed by, or added by, AB 1108.

(d) Section 1.07 incorporates changes to Section 10195 of the Insurance Code proposed by this bill, AB 1108, and SB 1110. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1988, (2) all three bills amend or repeal and add Section 10195 of the Insurance Code, (3) SB 1467 is not enacted or as enacted does not amend that section, (4) this bill is enacted after AB 1108 and SB 1110, in which case Sections 1, 1.01, 1.02, 1.03, 1.08, 1.09, and 1.11 of this bill shall not become operative, and Section 10195 of the Insurance Code shall not be repealed by, or added by, AB 1108.

(e) Section 1.08 incorporates changes to Section 10195 of the

Insurance Code proposed by this bill, AB 1108, and SB 1467. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1988, (2) all three bills amend or repeal and add Section 10195 of the Insurance Code, (3) SB 1110 is not enacted or as enacted does not amend that section, (4) this bill is enacted after AB 1108 and SB 1467, in which case Sections 1, 1.01, 1.02, 1.03, 1.07, 1.09, and 1.11 of this bill shall not become operative, and Section 10195 of the Insurance Code shall not be repealed by, or added by, AB 1108.

(f) Section 1.09 incorporates changes to Section 10195 of the Insurance Code proposed by this bill, SB 1110, and SB 1467. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1988, (2) all three bills amend or repeal and add Section 10195 of the Insurance Code, (3) AB 1108 is not enacted or as enacted does not repeal and add that section, (4) this bill is enacted after SB 1110 and SB 1467, in which case Sections 1, 1.01, 1.02, 1.03, 1.07, 1.08, and 1.11 of this bill shall not become operative, and Section 10195 of the Insurance Code shall not be repealed by, or added by, AB 1108.

(g) Section 1.11 incorporates changes to Section 10195 of the Insurance Code proposed by this bill, AB 1108, SB 1110, and SB 1467. It shall only become operative if (1) all four bills are enacted and become effective January 1, 1988, (2) all four bills amend or repeal and add Section 10195 of the Insurance Code, (3) this bill is enacted last, in which case Sections 1, 1.01, 1.02, 1.03, 1.07, 1.08, and 1.09 of this bill shall not become operative, and Section 10195 of the Insurance Code shall not be repealed by, or added by, AB 1108.

CHAPTER 1498

An act to amend Section 6146 of the Business and Professions Code, to amend Sections 3294 and 3295 of, and to add Section 1714.45 to, and to add Title 13.5 (commencing with Section 2860) to Part 4 of Division 3 of, the Civil Code, and to add Section 425.13 to the Code of Civil Procedure, relating to liability.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987]

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

SECTION 1. This act shall be known and may be cited as the Willie L. Brown Jr.-Bill Lockyer Civil Liability Reform Act of 1987.

SEC. 2. Section 6146 of the Business and Professions Code is amended to read:

6146. (a) An attorney shall not contract for or collect a contingency fee for representing any person seeking damages in connection with an action for injury or damage against a health care

provider based upon such person's alleged professional negligence in excess of the following limits:

(1) Forty percent of the first fifty thousand dollars ($50,000) recovered.

(2) Thirty-three and one-third percent of the next fifty thousand dollars ($50,000) recovered.

(3) Twenty-five percent of the next five hundred thousand dollars ($500,000) recovered.

(4) Fifteen percent of any amount on which the recovery exceeds six hundred thousand dollars ($600,000).

The limitations shall apply regardless of whether the recovery is by settlement, arbitration, or judgment, or whether the person for whom the recovery is made is a responsible adult, an infant, or a person of unsound mind.

(b) If periodic payments are awarded to the plaintiff pursuant to Section 667.7 of the Code of Civil Procedure, the court shall place a total value on these payments based upon the projected life expectancy of the plaintiff and include this amount in computing the total award from which attorney's fees are calculated under this section.

(c) For purposes of this section:

(1) "Recovered" means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim. Costs of medical care incurred by the plaintiff and the attorney's office-overhead costs or charges are not deductible disbursements or costs for such purpose.

(2) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500), or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider.

(3) "Professional negligence" is a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that the services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital.

SEC. 3. Section 1714.45 is added to the Civil Code, to read:

1714.45. (a) In a product liability action, a manufacturer or seller shall not be liable if:

(1) The product is inherently unsafe and the product is known to be unsafe by the ordinary consumer who consumes the product with the ordinary knowledge common to the community; and

(2) The product is a common consumer product intended for personal consumption, such as sugar, castor oil, alcohol, tobacco, and

butter, as identified in comment i to Section 402A of the Restatement (Second) of Torts.

(b) For purposes of this section, the term "product liability action" means any action for injury or death caused by a product, except that the term does not include an action based on a manufacturing defect or breach of an express warranty.

(c) This section is intended to be declarative of and does not alter or amend existing California law, including Cronin v. J.B.E. Olson Corp., (1972) 8 Cal. 3d 121, and shall apply to all product liability actions pending on, or commenced after, January 1, 1988.

SEC. 4. Title 13.5 (commencing with Section 2860) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 13.5. OBLIGATION TO DEFEND ACTION

2860. (a) If the provisions of a policy of insurance impose a duty to defend upon an insurer and a conflict of interest arises which creates a duty on the part of the insurer to provide independent counsel to the insured, the insurer shall provide such counsel to represent the insured unless, at the time the insured is informed that a possible conflict may arise or does exist, the insured expressly waives, in writing, the right to such counsel. An insurance contract may contain a provision which sets forth the method of selecting such counsel consistent with this section.

(b) For purposes of this section, a conflict of interest does not exist as to allegations or facts in the litigation for which the insurer denies coverage; however, when an insurer reserves its rights on a given issue and the outcome of that coverage issue can be controlled by counsel first retained by the insurer for the defense of the claim, a conflict of interest may exist. No conflict of interest shall be deemed to exist as to allegations of punitive damages or be deemed to exist solely because an insured is sued for an amount in excess of the insurance policy limits.

(c) When the insured has selected independent counsel to represent him or her, the insurer may exercise its right to require that the counsel selected by the insured possess certain minimum qualifications which may include that the selected counsel have (1) at least five years of tort litigation practice which includes substantial defense experience in the subject at issue in the litigation, and (2) errors and omissions coverage. The insurer's obligation to pay fees to such independent counsel selected by the insured is limited to the rates which are actually paid by the insurer to attorneys retained by it in the ordinary course of business in the defense of similar actions in the community where the claim arose or is being defended. The provisions of this subdivision shall not invalidate other different or additional policy provisions pertaining to attorney's fees or providing for methods of settlement of disputes concerning those fees. Any dispute concerning attorney's fees not resolved by these methods shall be resolved by final and binding arbitration by a single neutral

arbitrator selected by the parties to the dispute.

(d) When independent counsel has been selected by the insured, it shall be the duty of such counsel and the insured to disclose to the insurer all information concerning the action except privileged materials relevant to coverage disputes, and timely to inform and consult with the insurer on all matters relating to the action. Any claim of privilege asserted is subject to in camera review in the appropriate law and motion department of the superior court. Any information disclosed by the insured or by independent counsel is not a waiver of the privilege as to any other party.

(e) The insured may waive its right to select independent counsel by signing the following statement:

"I have been advised and informed of my right to select independent counsel to represent me in this lawsuit. I have considered this matter fully and freely waive my right to select independent counsel at this time. I authorize my insurer to select a defense attorney to represent me in this lawsuit."

(f) Where the insured selects independent counsel pursuant to the provisions of this section, both the counsel provided by the insurer and independent counsel selected by the insured shall be allowed to participate in all aspects of the litigation. Counsel shall cooperate fully in the exchange of information that is consistent with each counsel's ethical and legal obligation to the insured. Nothing in this section shall relieve the insured of his or her duty to cooperate with the insurer under the terms of the insurance contract.

SEC. 5. Section 3294 of the Civil Code is amended to read:

3294. (a) In an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice, the plaintiff, in addition to the actual damages, may recover damages for the sake of example and by way of punishing the defendant.

(b) An employer shall not be liable for damages pursuant to subdivision (a), based upon acts of an employee of the employer, unless the employer had advance knowledge of the unfitness of the employee and employed him or her with a conscious disregard of the rights or safety of others or authorized or ratified the wrongful conduct for which the damages are awarded or was personally guilty of oppression, fraud, or malice. With respect to a corporate employer, the advance knowledge and conscious disregard, authorization, ratification or act of oppression, fraud, or malice must be on the part of an officer, director, or managing agent of the corporation.

(c) As used in this section, the following definitions shall apply:

(1) "Malice" means conduct which is intended by the defendant to cause injury to the plaintiff or despicable conduct which is carried on by the defendant with a willful and conscious disregard of the rights or safety of others.

(2) "Oppression" means despicable conduct that subjects a person to cruel and unjust hardship in conscious disregard of that

person's rights.

(3) "Fraud" means an intentional misrepresentation, deceit, or concealment of a material fact known to the defendant with the intention on the part of the defendant of thereby depriving a person of property or legal rights or otherwise causing injury.

(d) Damages may be recovered pursuant to this section in an action pursuant to Section 377 of the Code of Civil Procedure or Section 573 of the Probate Code based upon a death which resulted from a homicide for which the defendant has been convicted of a felony, whether or not the decedant died instantly or survived the fatal injury for some period of time. The procedures for joinder and consolidation contained in Section 377 of the Code of Civil Procedure shall apply to prevent multiple recoveries of punitive or exemplary damages based upon the same wrongful act.

(e) The amendments to this section made by Senate Bill No. 241 of the 1987–88 Regular Session apply to all actions in which the initial trial has not commenced prior to January 1, 1988.

SEC. 6. Section 3295 of the Civil Code is amended to read:

3295. (a) The court may, for good cause, grant any defendant a protective order requiring the plaintiff to produce evidence of a prima facie case of liability for damages pursuant to Section 3294, prior to the introduction of evidence of:

(1) The profits the defendant has gained by virtue of the wrongful course of conduct of the nature and type shown by the evidence.

(2) The financial condition of the defendant.

(b) Nothing in this section shall prohibit the introduction of prima facie evidence to establish a case for damages pursuant to Section 3294.

(c) No pretrial discovery by the plaintiff shall be permitted with respect to the evidence referred to in paragraphs (1) and (2) of subdivision (a) unless the court enters an order permitting such discovery pursuant to this subdivision. However, the plaintiff may subpoena documents or witnesses to be available at the trial for the purpose of establishing the profits or financial condition referred to in subdivision (a), and the defendant may be required to identify documents in the defendant's possession which are relevant and admissible for that purpose and the witnesses employed by or related to the defendant who would be most competent to testify to those facts. Upon motion by the plaintiff supported by appropriate affidavits and after a hearing, if the court deems a hearing to be necessary, the court may at any time enter an order permitting the discovery otherwise prohibited by this subdivision if the court finds, on the basis of the supporting and opposing affidavits presented, that the plaintiff has established that there is a substantial probability that the plaintiff will prevail on the claim pursuant to Section 3294. Such order shall not be considered to be a determination on the merits of the claim or any defense thereto and shall not be given in evidence or referred to at the trial.

(d) The court shall, on application of any defendant, preclude the

admission of evidence of that defendant's profits or financial condition until after the trier of fact returns a verdict for plaintiff awarding actual damages and finds that a defendant is guilty of malice, oppression, or fraud in accordance with Section 3294. Evidence of profit and financial condition shall be admissible only as to the defendant or defendants found to be liable to the plaintiff and to be guilty of malice, oppression, or fraud. Evidence of profit and financial condition shall be presented to the same trier of fact that found for the plaintiff and found one or more defendants guilty of malice, oppression, or fraud.

(e) No claim for exemplary damages shall state an amount or amounts.

(f) The amendments to this section made by Senate Bill No. 241 of the 1987–88 Regular Session apply to all actions in which the initial trial has not commenced prior to January 1, 1988.

SEC. 7. Section 425.13 is added to the Code of Civil Procedure, to read:

425.13. No claim for punitive damages against a health care provider shall be included in a complaint or other pleading unless the court enters an order allowing an amended pleading that includes a claim for punitive damages to be filed. The court may allow the filing of an amended pleading claiming punitive damages on a motion by the party seeking the amended pleading and on the basis of the supporting and opposing affidavits presented that the plaintiff has established that there is a substantial probability that the plaintiff will prevail on the claim pursuant to Section 3294 of the Civil Code. The court shall not grant a motion allowing the filing of an amended pleading that includes a claim for punitive damages if the motion for such an order is not filed within two years after the complaint or initial pleading is filed or not less than nine months before the date the matter is first set for trial, whichever is earlier.

CHAPTER 1499

An act to repeal and add Section 502 of the Penal Code, and to amend Section 653.5 of, and to add Section 653.1 to, the Welfare and Institutions Code, relating to crimes.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987]

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

SECTION 1. This act shall be known and may be cited as the "Comprehensive Computer Data Access and Fraud Act."

SEC. 2. Section 502 of the Penal Code is repealed.

SEC. 3. Section 502 is added to the Penal Code, to read:

502. (a) It is the intent of the Legislature in enacting this section

to expand the degree of protection afforded to individuals, businesses, and governmental agencies from tampering, interference, damage, and unauthorized access to lawfully created computer data and computer systems. The Legislature finds and declares that the proliferation of computer technology has resulted in a concomitant proliferation of computer crime and other forms of unauthorized access to computers, computer systems, and computer data.

The Legislature further finds and declares that protection of the integrity of all types and forms of lawfully created computers, computer systems, and computer data is vital to the protection of the privacy of individuals as well as to the well-being of financial institutions, business concerns, governmental agencies, and others within this state that lawfully utilize those computers, computer systems, and data.

(b) For the purposes of this section, the following terms have the following meanings:

(1) "Access" means to gain entry to, instruct, or communicate with the logical, arithmetical, or memory function resources of a computer, computer system, or computer network.

(2) "Computer network" means two or more computer systems connected by telecommunication facilities.

(3) "Computer program or software" means a set of instructions or statements, and related data, that when executed in actual or modified form, cause a computer, computer system, or computer network to perform specified functions.

(4) "Computer services" includes, but is not limited to, computer time, data processing, or storage functions, or other uses of a computer, computer system, or computer network.

(5) "Computer system" means a device or collection of devices, including support devices and excluding calculators which are not programmable and capable of being used in conjunction with external files, one or more of which contain computer programs, electronic instructions, input data, and output data, that performs functions including, but not limited to, logic, arithmetic, data storage and retrieval, communication, and control.

(6) "Data" means a representation of information, knowledge, facts, concepts, computer software, computer programs or instructions. Data may be in any form, in storage media, or as stored in the memory of the computer or in transit or presented on a display device.

(7) "Supporting documentation" includes, but is not limited to, all information, in any form, pertaining to the design, construction, classification, implementation, use, or modification of a computer, computer system, computer network, computer program, or computer software, which information is not generally available to the public and is necessary for the operation of a computer, computer system, computer network, computer program, or computer software.

(8) "Injury" means any alteration, deletion, damage, or destruction of a computer system, computer network, computer program, or data caused by the access.

(9) "Victim expenditure" means any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program, or data was or was not altered, deleted, damaged, or destroyed by the access.

(c) Except as provided in subdivision (i), any person who commits any of the following acts is guilty of a public offense:

(1) Knowingly accesses and without permission alters, damages, deletes, destroys, or otherwise uses any data, computer, computer system, or computer network in order to either (A) devise or execute any scheme or artifice to defraud, deceive, or extort, or (B) wrongfully control or obtain money, property, or data.

(2) Knowingly accesses and without permission takes, copies, or makes use of any data from a computer, computer system, or computer network, or takes or copies any supporting documentation, whether existing or residing internal or external to a computer, computer system, or computer network.

(3) Knowingly and without permission uses or causes to be used computer services.

(4) Knowingly accesses and without permission adds, alters, damages, deletes, or destroys any data, computer software, or computer programs which reside or exist internal or external to a computer, computer system, or computer network.

(5) Knowingly and without permission disrupts or causes the disruption of computer services or denies or causes the denial of computer services to an authorized user of a computer, computer system, or computer network.

(6) Knowingly and without permission provides or assists in providing a means of accessing a computer, computer system, or computer network in violation of this section.

(7) Knowingly and without permission accesses or causes to be accessed any computer, computer system, or computer network.

(d) (1) Any person who violates any of the provisions of paragraph (1), (2), (4), or (5) of subdivision (c) is punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the county jail not exceeding one year, or by both that fine and imprisonment.

(2) Any person who violates paragraph (3) of subdivision (c) is punishable as follows:

(A) For the first violation which does not result in injury, and where the value of the computer services used does not exceed four hundred dollars ($400), by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the county jail not exceeding one year, or by both that fine and imprisonment.

(B) For any violation which results in a victim expenditure in an

amount greater than five thousand dollars ($5,000) or in an injury, or if the value of the computer services used exceeds four hundred dollars ($400), or for any second or subsequent violation, by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the county jail not exceeding one year, or by both that fine and imprisonment.

(3) Any person who violates paragraph (6) or (7) of subdivision (c) is punishable as follows:

(A) For a first violation which does not result in injury, an infraction punishable by a fine not exceeding two hundred fifty dollars ($250).

(B) For any violation which results in a victim expenditure in an amount not greater than five thousand dollars ($5,000), or for a second or subsequent violation, by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the county jail not exceeding one year, or by both that fine and imprisonment.

(C) For any violation which results in a victim expenditure in an amount greater than five thousand dollars ($5,000), by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the county jail not exceeding one year, or by both that fine and imprisonment.

(e) (1) In addition to any other civil remedy available, the owner or lessee of the computer, computer system, computer network, computer program, or data may bring a civil action against any person convicted under this section for compensatory damages, including any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program, or data was or was not altered, damaged, or deleted by the access. For the purposes of actions authorized by this subdivision, the conduct of an unemancipated minor shall be imputed to the parent or legal guardian having control or custody of the minor, pursuant to the provisions of Section 1714.1 of the Civil Code.

(2) In any action brought pursuant to this subdivision the court may award reasonable attorney's fees to a prevailing party.

(f) This section shall not be construed to preclude the applicability of any other provision of the criminal law of this state which applies or may apply to any transaction, nor shall it make illegal any employee labor relations activities that are within the scope and protection of state or federal labor laws.

(g) This section applies only to public offenses committed on or after January 1, 1988. It is the intent of the Legislature that this section be given no retroactive effect and persons who commit a violation of the provisions of Section 502 in effect prior to January 1, 1988, shall be held responsible therefor.

(h) Any computer, computer system, computer program, instrument, apparatus, device, plans, instructions, or written publication used in the commission of any public offense described in subdivision (c) may be seized under warrant or incident to a lawful arrest. Any property seized under this subdivision is subject to forfeiture pursuant to Section 502.01.

(i) (1) Subdivision (c) does not apply to any person who accesses his or her employer's computer system, computer network, computer program, or data when acting within the scope of his or her lawful employment.

(2) Paragraph (3) of subdivision (c) does not apply to any employee who accesses or uses his or her employer's computer system, computer network, computer program, or data when acting outside the scope of his or her lawful employment, so long as the employee's activities do not cause an injury, as defined in paragraph (8) of subdivision (b), to the employer or another, or so long as the value of computer services, as defined in paragraph (4) of subdivision (b), which are used do not exceed one hundred dollars ($100).

(j) No activity exempted from prosecution under paragraph (2) of subdivision (i) which incidentally violates paragraph (2), (4), or (7) of subdivision (c) shall be prosecuted under those paragraphs.

(k) For purposes of bringing a civil or a criminal action under this section, a person who causes, by any means, the access of a computer, computer system, or computer network in one jurisdiction from another jurisdiction is deemed to have personally accessed the computer, computer system, or computer network in each jurisdiction.

SEC. 4. Section 653.1 is added to the Welfare and Institutions Code, to read:

653.1. Notwithstanding Section 653, in the case of an affidavit alleging that the minor committed an offense described in Section 602, the probation officer shall cause the affidavit to be immediately taken to the prosecuting attorney if it appears to the probation officer that the minor has been referred to the probation officer for any violation of an offense listed in subdivision (b) of Section 707 and that offense was allegedly committed when the minor was 16 years of age or older. If the prosecuting attorney decides not to file a petition, he or she may return the affidavit to the probation officer for any other appropriate action.

SEC. 5. Section 653.5 of the Welfare and Institutions Code is amended to read:

653.5. (a) Whenever any person applies to the probation officer to commence proceedings in the juvenile court, the application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 602, or that a minor committed an offense described in Section 602 within the county, and setting forth facts in support thereof. The probation officer shall immediately make any investigation he or she

deems necessary to determine whether proceedings in the juvenile court shall be commenced.

(b) Except as provided in subdivision (c), if the probation officer determines that proceedings pursuant to Section 650 should be commenced to declare a person to be a ward of the juvenile court on the basis that he or she is a person described in Section 602, the probation officer shall cause the affidavit to be taken to the prosecuting attorney.

(c) Notwithstanding the provisions of subdivision (b), the probation officer shall cause the affidavit to be taken within 48 hours to the prosecuting attorney in all of the following cases:

(1) If it appears to the probation officer that the minor has been referred to the probation officer for any violation of an offense listed in subdivision (b) of Section 707.

(2) If it appears to the probation officer that the minor is under 16 years of age at the date of the offense and that the offense constitutes a second felony referral to the probation officer.

(3) If it appears to the probation officer that the minor was 16 years of age or older at the date of the offense and that the offense constitutes a felony referral to the probation officer.

The provisions of subdivision (c) shall not apply to a narcotics and drug offense set forth in Section 1000 of the Penal Code.

The prosecuting attorney shall within his or her discretionary power institute proceedings in accordance with his or her role as public prosecutor pursuant to subdivision (b) of Section 650 and Section 26500 of the Government Code. However, if it appears to the prosecuting attorney that the affidavit was not properly referred, that the offense for which the minor was referred should be charged as a misdemeanor, or that the minor may benefit from a program of informal supervision, he or she shall refer the matter to the probation officer for whatever action the probation officer may deem appropriate.

(d) In all matters where the minor is not in custody and is already a ward of the court or a probationer under Section 602, the prosecuting attorney, within five judicial days of receipt of the affidavit from the probation officer, shall institute proceedings in accordance with his or her role as public prosecutor pursuant to subdivision (b) of Section 650 of this code and Section 26500 of the Government Code, unless it appears to the prosecuting attorney that the affidavit was not properly referred or that the offense for which the minor was referred requires additional substantiating information, in which case he or she shall immediately notify the probation officer of what further action he or she is taking.

SEC. 6. 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.

However, notwithstanding Section 17610 of the Government Code, if the commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1500

An act to add Chapter 5.7 (commencing with Section 92590) to Part 57 of the Education Code, relating to manufacturing and automation research, and making an appropriation therefor.

[Approved by Governor September 30, 1987 Filed with Secretary of State September 30, 1987.]

I am deleting the $200,000 appropriation contained in Section 2 of Senate Bill No. 1647

This bill would appropriate $200,000 to support the University of California Institute for Manufacturing and Automation

The demands placed on budget resources require all of us to set priorities. The budget enacted in July, 1987 appropriated nearly $41 billion in state funds. This amount is more than adequate to provide the necessary essential services provided for by State Government. It is not necessary to put additional pressure on taxpayer funds for programs that fall beyond the priorities currently provided

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties.

I would, however, consider funding the provisions of this bill during the budget process for Fiscal Year 1988–89. It is appropriate to review the relative merits of this program in comparison to all other funding projects. The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit

With this deletion, I approve Senate Bill No 1647.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Chapter 5.7 (commencing with Section 92590) is added to Part 57 of the Education Code, to read:

CHAPTER 5.7. INSTITUTE FOR MANUFACTURING AND AUTOMATION RESEARCH

92590. The Legislature finds and declares the following:

(a) That a recent study documented that key industries in this state have experienced a decline in productivity from 1972 to 1982 when compared with the rest of the nation. The decline occurred in industries such as computers and civilian aerospace which have been critical to the growth of California's economy.

(b) California continues to be in the forefront of innovation and development of new products, but must improve its competitiveness in the manufacturing of products if industries in the state are to maintain their market shares.

(c) Developing partnerships with the private sector, the federal government, the universities, and the state to support research and education in process engineering would benefit the state's economy.

(d) The Institute for Manufacturing and Automation Research was incorporated in California on March 2, 1987.

92591. The University of California may, with the approval of the regents, participate in the Institute for Manufacturing and Automation Research which meets all the requirements of this chapter.

92591.5. For the purposes of this chapter, "institute" means the Institute for Manufacturing and Automation Research.

92592. The institute shall perform basic and applied research on manufacturing systems, automation, and robotics and shall train engineering students and industry personnel in the latest manufacturing techniques and methods. A major emphasis shall be on the development of highly autonomous, intelligent systems and processes applicable to manufacturing process of interest to California's high technology oriented companies.

The research and development may address the following areas: computer integrated manufacturing; computer hardware methodologies for manfacturing; application of artificial intelligence and expert systems in manufacturing; software methodologies in manufacturing; robotics and numerically controlled manufacturing; computer vision and sensor technology; automated materials handling and storage; process planning and control; computer-aided design, engineering and manufacturing; manufacturing systems engineering; flexible manufacturing systems; human resources in manufacturing and automation; and implementation of advanced manufacturing technology.

The research and development shall be conducted by public and private universities in California. The universities shall utilize visiting fellows from industry to conduct the research and development when possible and appropriate.

92593. There shall be an advisory committee consisting of private industry members willing to identify necessary research and development projects of major importance to industry in California and willing to provide matching funds for the research and development projects.

92594. The institute shall seek funding from private industry, industry associations and foundations, the federal government, and the universities.

92595. The university, with the approval of the regents, shall provide funding for graduate fellowships to assist in the research projects conducted by the University of California.

92596. The Department of Commerce shall contract with the

institute for research and development regarding the manufacturing process. The amount of state funding provided under this contract shall constitute the required state match for securing federal funding from the National Science Foundation's Industry-University Cooperative Research Center program.

SEC. 2. The sum of two hundred thousand dollars ($200,000) is appropriated from the General Fund to the Department of Commerce for implementation of the contract between the department and the institute provided for in this act. The funds appropriated by this act shall only be expended at a ratio of at least seven dollars ($7) of private funds for each four dollars ($4) of the funds appropriated from the General Fund. The funds appropriated from the General Fund shall be expended by the Department of Commerce upon notification that the institute has received the required private match.

CHAPTER 1501

An act to repeal Section 3212.8 of the Labor Code, relating to governmental programs.

[Approved by Governor September 30, 1987. Filed with Secretary of State October 1, 1987]

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

SECTION 1. Section 3212.8 of the Labor Code is repealed.

SEC. 2. Pursuant to Section 17579 of the Government Code, the Legislature finds that there is no mandate contained in this act which will result in costs incurred by a local agency or school district for a new program or higher level of service which requires reimbursement pursuant to Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. 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 1502

An act to amend Section 12413 of the Insurance Code, relating to insurance.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1987.]

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

SECTION 1. Section 12413 of the Insurance Code is amended to read:

12413. (a) No title insurance company, controlled escrow company, or underwritten title company shall disburse funds from an escrow account until items or drafts in an amount sufficient to fund any disbursements from the account have been received and deposited to the account or submitted for collection.

(b) Except as provided in Section 12404, where a draft, other than a share draft, has been received and submitted for collection, no title insurance company, controlled escrow company, or underwritten title company shall disburse funds from an escrow account with respect to the draft until the proceeds of the draft have become available for withdrawal as a matter of right from the financial institution to which the draft has been submitted for collection.

(c) Except as provided in Section 12404, where an item which is drawn on an office of a financial institution which is located in a state other than this state, has been received and deposited to the escrow account, no title insurance company, controlled escrow company, or underwritten title company shall disburse funds from the escrow account with respect to the item until the proceeds of the item have become available for withdrawal as a matter of right from the financial institution to which the deposit was made. For the purposes of this subdivision, "item" does not include any category of checks which has been found by the commissioner, in response to an application: (1) to be drawn by a financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, (2) to qualify for use in interbank settlements in accordance with Section 4211 of the Commercial Code, (3) to be drawn on an insured bank which is located in a Federal Reserve city or which has a routing and transit code on the face of the check which is identified as a high dollar group sort clearing point by the Board of Governors of the Federal Reserve system, and (4) to be shown on the basis of verifiable information to be collected by depository banks within the same time or less as generally occurs for items drawn on California institutions. For the purposes of this subdivision, "Federal Reserve city" is a city in which is located a Federal Reserve Bank or branch thereof.

(d) For purposes of subdivisions (b) and (c), "available for withdrawal as a matter of right" means the following:

(1) For any item or draft, other than a share draft, when the item or draft has been submitted for collection and payment received.

(2) For any deposited item, the earlier of:

(A) When final settlement has occurred.

(B) Unless written notification has been received from the financial institution to which the deposit was made establishing a longer period, for any item drawn on a state or federal saving and loan association or state or federal savings bank located in a state other than this state, that period established by regulations, issued pursuant to Article 1.8 (commencing with Section 866) of Chapter 7 of Division 1 of the Financial Code by the department having regulatory authority over the financial institution to which the item was deposited, as a reasonable time for permitting customers to draw on the item which was drawn on a financial institution located in a state other than this state, notwithstanding any provision in the regulations limiting their application to items having a face amount less than a stated amount.

(C) Unless written notification has been received from the financial institution to which the deposit was made establishing a longer period, for any item drawn on a state or national bank located in a state other than this state, that period established by regulations, issued pursuant to Article 1.8 (commencing with Section 866) of Chapter 7 of Division 1 of the Financial Code by the department having regulatory authority over the financial institution to which the item was deposited, as a reasonable time for permitting customers to draw on the item which was drawn on a financial institution located in a state other than this state, notwithstanding any provision in the regulations limiting their application to items having a face amount less than a stated amount.

(D) Unless written notification has been received from the financial institution to which the deposit was made establishing a longer period, for any item drawn on any state or federal credit union located in a state other than this state, that period established by regulations, issued pursuant to Article 1.8 (commencing with Section 866) of Chapter 7 of Division 1 of the Financial Code by the department having regulatory authority over the financial institution to which the item was deposited, as a reasonable time for permitting customers to draw on the item which was drawn on a financial institution located in a state other than this state, notwithstanding any provision in the regulations limiting their application to items having a face amount less than a stated amount.

(E) When the financial institution to which the item has been deposited considers the item available for withdrawal as a matter of right, and when a final settlement will occur, as indicated to the title insurance company, controlled escrow company, or underwritten title company, in writing, by the depository financial institution with respect to that item or type of item.

(e) As used herein, the deposit to an escrow account of an item, or the submission for collection of an item, shall be deemed to have

occurred on the date denominated the day of deposit as set forth in the regulations adopted pursuant to Article 1.8 (commencing with Section 866) of Chapter 7 of Division 1 of the Financial Code, applicable to the financial institution to which the item is deposited or submitted for collection by the title insurer, controlled escrow company, or underwritten title company.

(f) For purposes of this section, the term "escrow account" means any depository account with a financial institution to which items or drafts are deposited with respect to any transaction wherein one person, for the purpose of effecting the sale, transfer, encumbering or leasing of real or personal property to another person, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person to be held by such third person until the happening of a specified event or the performance of a prescribed condition, when it is then to be delivered by such third person to a grantee, grantor, promisee, promisor, obligee, obligor, bailee, bailor, or any agency or employee of the latter.

(g) For purposes of this section, the term "item" means any check (including a cashier's check), negotiable order of withdrawal, share draft, traveler's check, or money order.

(h) For purposes of this section, the term "financial institution" means any financial institution: (1) whose accounts are insured by either the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation or the National Credit Union Administration, or (2) which is subject to the jurisdiction of either the Comptroller of the Currency, the Federal Home Loan Bank Board, or the National Credit Union Administration, or (3) is located in a state other than this state, and does not meet the requirements of paragraph (1) or (2), but is subject to the jurisdiction of the state with which it is located by an agency having authority comparable to that of either the State Department of State Banking, Department of Savings and Loan, or Department of Corporations.

(i) No title insurance company, controlled escrow company, or underwritten title company shall be liable for a violation of this section if the violation was not intentional or resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid that error. Examples of bona fide errors include, but are not limited to clerical, calculation, computer malfunction and programming, and printing errors.

(j) Nothing in this section shall be deemed to prohibit the recordation of documents prior to the time funds would be available for disbursement with respect to a transaction provided the parties to the transaction consent in writing prior thereto.

CHAPTER 1503

An act to add Section 1940.5 to the Civil Code, relating to landlord-tenant.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1987.]

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

SECTION 1. Section 1940.5 is added to the Civil Code, to read:

1940.5. An owner or an owner's agent shall not refuse to rent a dwelling unit in a structure which received its valid certificate of occupancy after January 1, 1973, to an otherwise qualified prospective tenant or refuse to continue to rent to an existing tenant solely on the basis of that tenant's possession of a waterbed or other bedding with liquid filling material where all of the following requirements and conditions are met:

(a) A tenant or prospective tenant furnishes to the owner, prior to installation, a valid waterbed insurance policy or certificate of insurance for property damage. The policy shall be issued by a company licensed to do business in California and possessing a Bests Insurance Report rating of "B" or higher. The insurance policy shall be maintained in full force and effect until the bedding is permanently removed from the rental premises. The policy shall be written for no less than one hundred thousand dollars ($100,000) of coverage. The policy shall cover, up to the limits of the policy, replacement value of all property damage, including loss of use, incurred by the rental property owner or other caused by or arising out of the ownership, maintenance, use, or removal of the waterbed on the rental premises only, except for any damage caused intentionally or at the direction of the insured, or for any damage caused by or resulting from fire. The owner may require the tenant to produce evidence of insurance at any time. The carrier shall give the owner notice of cancellation or nonrenewal 10 days prior to this action. Every application for a policy shall contain the information as provided in subdivisions (a), (b), and (c) of Section 1962 and Section 1962.5.

(b) The bedding shall conform to the pounds-per-square foot weight limitation and placement as dictated by the floor load capacity of the residential structure. The weight shall be distributed on a pedestal or frame which is substantially the dimensions of the mattress itself.

(c) The tenant or prospective tenant shall install, maintain and remove the bedding, including, but not limited to, the mattress and frame, according to standard methods of installation, maintenance, and removal as prescribed by the manufacturer, retailer, or state law, whichever provides the higher degree of safety. The tenant shall notify the owner or owner's agent in writing of the intent to install,

remove, or move the waterbed. The notice shall be delivered 24 hours prior to the installation, removal, or movement. The owner or the owner's agent may be present at the time of installation, removal, or movement at the owner's or the owner's agent's option. If the bedding is installed or moved by any person other than the tenant or prospective tenant, the tenant or prospective tenant shall deliver to the owner or to the owner's agent a written installation receipt stating the installer's name, address, and business affiliation where appropriate.

(d) Any new bedding installation shall conform to the owner's or the owner's agent's reasonable structural specifications for placement within the rental property and shall be consistent with floor capacity of the rental dwelling unit.

(e) The tenant or prospective tenant shall comply with the minimum component specification list prescribed by the manufacturer, retailer, or state law, whichever provides the higher degree of safety.

(f) All bedding shall comply with the rules and regulations governing the quality of bedding construction promulgated by the Bureau of Home Furnishings pursuant to Section 19155 of the Business and Professions Code, and shall display a label declaring compliance with those rules and regulations. Any bedding constructed prior to January 1, 1973, shall be deemed not in compliance with the requirements of this subdivision.

(g) Subject to the notice requirements of Section 1954, the owner, or the owner's agent, shall have the right to inspect the bedding installation upon completion, and periodically thereafter, to insure its conformity with this section. If installation or maintenance is not in conformity with this section, the owner may serve the tenant with a written notice of breach of the rental agreement. The owner may give the tenant three days either to bring the installation into conformity with those standards or to remove the bedding, unless there is an immediate danger to the structure, in which case there shall be immediate corrective action. If the bedding is installed by any person other than the tenant or prospective tenant, the tenant or prospective tenant shall deliver to the owner or to the owner's agent a written installation receipt stating the installer's name and business affiliation where appropriate.

(h) Notwithstanding Section 1950.5, an owner or owner's agent is entitled to increase the security deposit on the dwelling unit in an amount equal to one-half of one months' rent. The owner or owner's agent may charge a tenant, lessee, or sublessee a reasonable fee to cover administration costs. In no event does this section authorize the payment of a rebate of premium in violation of Article 5 (commencing with Section 750) of Chapter 1 of Part 2 of Division 1 of the Insurance Code.

(i) Failure of the owner, or owner's agent, to exercise any of his or her rights pursuant to this section does not constitute grounds for denial of an insurance claim.

(j) As used in this section, "tenant" includes any lessee, and "rental" means any rental or lease.

SEC. 2. The Bureau of Home Furnishings shall, on or before January 1, 1989, do all of the following:

(a) Review the current standards for waterbed heaters.

(b) Review recent developments in technology relating to waterbed heaters.

(c) Adopt new regulations which will improve the safety and quality of waterbed heaters.

CHAPTER 1504

An act to amend Section 39015 of the Education Code, relating to school facilities.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1987]

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

SECTION 1. Section 39015 of the Education Code is amended to read:

39015. (a) 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 that 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.

(b) Payment shall not be required under this section as to any site having a value of twenty thousand dollars ($20,000) or less. Commencing on January 1, 1988, and annually thereafter, the State Allocation Board shall increase this exemption figure by the amount of the current fiscal year inflation adjustment specified in Section 42238.1, if any.

(c) 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 that in the determination of the State Allocation Board is applicable to the site under consideration.

(d) 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 that 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.

(e) 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 purposes, for use as a civic center, or for 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. " Civic center," for this purpose, means a site used for one or more of the purposes described in Section 40041.

Nonuse payments shall not be required for any year with respect to a school site that was leased at least one-half of the days in that year in a manner that subjected the site to property taxes equal to the taxes that would have been paid if the site had been sold.

CONCURRENT AND JOINT RESOLUTIONS

1987–88

REGULAR SESSION

1987 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 January 9, 1987]

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 the Legislative Counsel of California.

RESOLUTION CHAPTER 2

Senate Concurrent Resolution No. 2—Relative to aviation and airports.

[Filed with Secretary of State January 13, 1987]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That, notwithstanding Resolution Chapter 159 of the Statutes of 1986, the California Commission on Aviation and Airports established by that measure be composed of 21 members, as follows:

(a) The Senate Committee on Rules shall appoint the following 10 members:

(1) A manager of an international airport or the general manager of a major municipal airport department.

(2) A manager of an airport serving general aviation.

(3) A representative of a major airline with service to and from California.

(4) A licensed general aviation pilot.

(5) An aircraft mechanic currently employed in the trade.

(6) A person currently employed as an air traffic controller.

(7) Three Members of the Senate.

(8) A public member.

(b) The Speaker of the Assembly shall appoint the following 10 members:

(1) A manager of an airport serving general aviation.

(2) A representative of a national airline with service to California or a representative of a third-level air carrier with service to California.

(3) A security expert experienced in handling emergency situations.

(4) A representative of general aviation.

(5) A person with expertise in building safety and construction.

(6) A licensed and active pilot flying for a major or national airline serving California.

(7) Three Members of the Assembly.

(8) A public member.

(c) The Chief of the Division of Aeronautics of the Department of Transportation; and be it further

Resolved, That the chairperson of the commission shall be appointed by the Senate Committee on Rules, and the vice chair shall be appointed by the Speaker of the Assembly; and be it further

Resolved, That, notwithstanding Resolution Chapter 159 of the Statutes of 1986, the first meeting of the California Commission on Aviation and Airports shall occur within 90 days of the effective date of this measure.

RESOLUTION CHAPTER 3

Senate Joint Resolution No. 2—Relative to federal transportation funds.

[Filed with Secretary of State January 23, 1987]

WHEREAS, The provision of federal highway and transit funds is essential to the funding of state and local transportation programs; and

WHEREAS, The Congress of the United States must periodically renew federal transportation funding authority for the allocation and expenditure of these federal funds by the states; and

WHEREAS, The Surface Transportation Assistance Act expired on September 30, 1986, and the Congress has failed to reauthorize any federal highway programs since then, leaving no new federal highway funds for 1986–1987; and

WHEREAS, California's highway and transit capital outlay programs are heavily dependent upon the federal government's financial participation; and

WHEREAS, Even with continued full federal funding, available financial resources are insufficient to fund all needed capital outlay improvements; and

WHEREAS, The failure to quickly reestablish full federal highway funding and expenditure authority will severely curtail or bring to a halt highway construction in California, including the termination of all new highway construction contracts by April of 1987; and

WHEREAS, No new capital outlay funds for transit can be made available until federal legislation is enacted; and

WHEREAS, The long lead time associated with construction projects and the need to be able to plan for these lead times create a need for multiyear funding legislation; 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 expeditiously

enact a multiyear surface transportation assistance act consistent with the federal transportation funds available; 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 4

Assembly Concurrent Resolution No. 9—Relative to public employee pension funds invested in the General Motors Corporation.

[Filed with Secretary of State January 23, 1987.]

WHEREAS, The Public Employees' Retirement System (PERS) and the State Teachers' Retirement System (STRS) hold, on behalf of their members and beneficiaries, major investments in General Motors Corporation, including both common stock and fixed income investments; and

WHEREAS, PERS also holds General Motors Class "E" stock; and

WHEREAS, The General Motors Corporation agreed in December, 1986, to repurchase the Class "E" stock held by one of its directors, H. Ross Perot, at a cost in excess of $700 million, which amount was substantially above the market value of that stock; and

WHEREAS, As part of the repurchase agreement, General Motors Corporation and H. Ross Perot further agreed that neither party would publicly discuss the reasons for the repurchase; and

WHEREAS, This agreement has had a material affect on the value of investments in General Motors Corporation, including investments in common stock and Class "E" stock; and

WHEREAS, The repurchase agreement was discriminatory in that other investors, including PERS, were not made the same offer; and

WHEREAS, PERS and STRS are working closely with the Council of Institutional Investors to force General Motors Corporation to adequately explain this use of corporate assets and to prevent waste, abuse, or misuse of company funds; and

WHEREAS, PERS and STRS are also reviewing all appropriate shareholder remedies deriving from this repurchase agreement; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature urges the directors of PERS and STRS to review all legal options in their efforts to obtain from General Motors Corporation a complete and accurate explanation of the repurchase agreement with H. Ross Perot; and be it further

Resolved, That the Legislature expresses its full support for PERS,

STRS, and the Council of Institutional Investors in their efforts to force General Motors Corporation to deal prudently with its funds and fairly with its stockholders; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Chairman of the Board of Directors and the Chief Executive Officer of General Motors Corporation, the Governor, the Executive Officer of the Public Employees' Retirement System, the Chief Executive Officer of the State Teachers' Retirement System, and the author for further appropriate distribution.

RESOLUTION CHAPTER 5

Senate Concurrent Resolution No. 5—Relative to the Joint Committee on the State's Economy.

[Filed with Secretary of State January 30, 1987]

Resolved by the Senate of the State of California, the Assembly thereof concurring, as follows:

(1) Notwithstanding any prior concurrent resolution affecting these committees, the Joint Committee on the State's Economy and the advisory committees authorized to be established pursuant to Resolution Chapter 4 of the Statutes of 1980 are continued in existence through November 30, 1988.

(2) The committee shall continue to have the powers and duties granted and imposed by the resolutions creating and continuing it.

(3) 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 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 the approval of that rules committee. The committee shall, within 15 calendar days following the adoption of this measure and annually thereafter, present its annual budget to the Joint Rules Committee for its review and comment.

RESOLUTION CHAPTER 6

Senate Concurrent Resolution No. 17—Relative to the 1987 America's Cup yacht race.

[Filed with Secretary of State February 9, 1987]

WHEREAS, For 132 years the America's Cup has symbolized America's winning leadership in the world arena of yacht racing; and

WHEREAS, Only once since the inception of this longest running of all international sports competitions has a challenger taken the trophy home; and

WHEREAS, On September 26, 1983, Australia's winged-keel *Australia II* astounded the world by narrowly defeating American defender *Liberty* in the decisive seventh race of the series; and

WHEREAS, Led by Dennis Conner, a team of America's best sailors, designers, scientists, and tacticians, under the auspices of the Sail America Foundation, immediately launched a campaign to recapture the trophy; and

WHEREAS, From that unprecedented effort emerged the San Diego Yacht Club's entry, *Stars and Stripes,* a 12-meter vessel incorporating state-of-the-art technology, designed and built with the sole objective of winning the 1987 America's Cup; and

WHEREAS, World attention focused on the yachting duel being fought in the Indian Ocean off Fremantle, Western Australia, where, on February 3, 1987, *Stars and Stripes* triumphantly bested Australia's *Kookaburra III* in the fourth straight race, capturing the trophy and winning the heartfelt admiration of Americans and Australians alike; and

WHEREAS, At the helm of *Stars and Stripes* in its victory was Dennis Conner, one of the world's foremost sailors and 12-meter yacht skippers; and

WHEREAS, Twice a world champion in Star Class racing, an Olympic bronze medalist in Tempest Class, winner of four Southern Ocean Racing Conference competitions, and twice a winner of the Congressional Cup, Dennis Conner has logged 8,000 hours in 12-meter boats, having twice skippered defending boats in the America's Cup series; and

WHEREAS, The crew of *Stars and Stripes,* selected from over 300 qualified applicants, is a veteran racing team with a total of 15 years of actual America's Cup races; and

WHEREAS, Each member of the winning 11-man crew, Tom Whidden, tactician; Peter Isler, navigator; John Wright, mainsheet; Adam Ostenfeld, starboard tailer; Henry Childers, starboard grinder; Bill Trenkle, port tailer; Jim Kavle, port grinder; Kyle Smith, third grinder; Jay Brown, pitman; John Barnitt, mastman; and Scott Vogel, bowman, performed vital and indispensible roles in bringing *Stars and Stripes* to victory and the America's Cup to the United States; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That Dennis Conner and members of the crew of *Stars and Stripes,* Sail America Foundation and its President, Malin Burnham, and the San Diego Yacht Club be commended for their outstanding efforts which culminated in winning the 1987 America's Cup; and be it further

Resolved, That the Secretary of the Senate transmit suitably

prepared copies of this resolution to Dennis Conner, members of the crew of *Stars and Stripes,* the Sail America Foundation, Malin Burnham, and the San Diego Yacht Club.

RESOLUTION CHAPTER 7

Assembly Concurrent Resolution No. 21—Relating to civil rights.

[Filed with Secretary of State February 11, 1987.]

WHEREAS, The Constitution of the United States guarantees that all citizens shall receive equal protection of the laws; and

WHEREAS, Progress has been made in the United States over the past 30 years towards eliminating racism, discrimination, and racial violence, particularly as a result of the American civil rights movement and the courageous work of thousands of civil rights workers under the guidance and direction of Dr. Martin Luther King, Jr.; and

WHEREAS, Despite the progress made in the area of civil rights, racism and discrimination still exist in our nation; and

WHEREAS, In recent weeks, over 35,000 citizens have marched in Forsyth County, Georgia in pursuit of the American dream of equality; and

WHEREAS, Reverend Hosea Williams of the Southern Christian Leadership Conference, has worked with Mrs. Coretta Scott King, Reverend Joseph Lowery, Dr. Benjamin Hooks, Rabbi Alvin Sugarman, Mr. Dean Carter, and other civil rights leaders to form the "Coalition to End Fear and Intimidation in Forsyth County"; now therefore be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the "Coalition to End Fear and Intimidation in Forsyth County" be commended for its courageous efforts to make Americans aware of the hatred and racism that still exists in our nation and for the coalition's determination to bring this issue to the attention of the American public through nonviolent means; and be it further

Resolved, That the California Legislature proudly and enthusiastically adds its support to the "Coalition to End Fear and Intimidation in Forsyth County" and that California stands firmly with the goals of the American civil rights movement which were so passionately articulated by the late Dr. Martin Luther King, Jr. and are so ably followed by his successors in the Southern Christian Leadership Conference and other civil rights organizations; and be it further

Resolved, That the Chief Clerk of the Assembly prepare a suitably framed copy of this resolution for presentation to Reverend Hosea Williams, Chairman of the "Coalition to End Fear and Intimidation in Forsyth County."

RESOLUTION CHAPTER 8

Assembly Concurrent Resolution No. 16—Relative to "Save Your Vision Week."

[Filed with Secretary of State February 17, 1987.]

WHEREAS, Good vision enriches the quality of life for the citizens of California; and

WHEREAS, Caring for the priceless gift of eye health and good vision should be a major concern and responsibility of each citizen; and

WHEREAS, Save Your Vision Week calls attention to the important role good vision plays in enjoying life and the beauty that surrounds us; and

WHEREAS, The observance of Save Your Vision Week heightens public awareness about the availability of professional care needed to preserve and enhance good vision; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the week of March 1–7, 1987, be proclaimed as "Save Your Vision Week"; and be it further

Resolved, That all citizens of this state are encouraged to take preventive measures in preserving their eye health and good vision; and be it further

Resolved, That doctors of optometry, other health care professionals, the news media, and community leaders are urged to be diligent in their efforts to educate the public about eye care; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the California Optometric Association.

RESOLUTION CHAPTER 9

Assembly Joint Resolution No. 13—Relative to highway speed limits.

[Filed with Secretary of State February 17, 1987]

WHEREAS, The 55 mile-per-hour (mph) speed limit was originally enacted by Congress as a temporary fuel conservation measure; and

WHEREAS, States are subject to sanctions in the form of withholding of highway funds when measured compliance by motorists with the 55 mph speed limit falls below 50 percent; and

WHEREAS, The United States Department of Transportation recently withheld $510,000 in federal highway funds from Arizona because more than 50 percent of the motorists exceeded the 55 mph speed limit; and

WHEREAS, California could face a loss of over $30 million annually in federal highway funds paid by Californians into the federal treasury if sanctions are imposed; and

WHEREAS, Despite active enforcement of the 55 mph speed limit by the California Highway Patrol and the resulting issuance of approximately 1,000,000 citations annually, motorists continue to exceed the speed limit in record numbers; and

WHEREAS, Allowable speeds on controlled-access freeways in rural areas could be increased to 65 mph, while urban freeways and two-lane highways could retain the 55 mph speed limit; and

WHEREAS, Large trucks, autos with trailers, and other combination vehicles should continue to be limited to a maximum speed of 55 mph as was the case in California prior to the reduction of auto speed limits in 1974; and

WHEREAS, Overall safety benefits to the motoring public may well be enhanced if some law enforcement resources are redeployed from rural freeway speed enforcement to other highway safety priorities, including the apprehension of drunk drivers; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President and the Congress of the United States to enact legislation to allow the states the option of increasing the maximum speed limit on rural, controlled-access freeways to 65 mph; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Chairman of the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Transportation.

RESOLUTION CHAPTER 10

Assembly Joint Resolution No. 2—Relative to Africanized bees.

[Filed with Secretary of State February 19, 1987.]

WHEREAS, The Africanized bee quickly supplanted European stock, expanding their range 200 to 300 miles a year from the original epicenter in Brazil (1957), and have now reached Guatemala and are

soon to cross over into Mexico if this has not already occurred; and

WHEREAS, Leading scientific experts have indicated that, if the Africanized bee continues to advance as predicted, it will be in the United States by 1990; and

WHEREAS, Studies in Venezuela, Colombia, and Central America found that the bee has retained virtually all of its African characteristics as it has spread; and

WHEREAS, The Africanized bee has the potential to have a devastating impact on California's agricultural industry and to threaten public health and safety; and

WHEREAS, Africanized bees are a potentially serious threat to the pollination of many agricultural crops in California because their colonies are not manageable as commercial pollination units under California conditions, with the vast acreages of crops interspersed with roads, livestock, and people, and especially with the need to frequently transport hives from area to area; and

WHEREAS, In California, more than 600,000 commercially managed beehives pollinate approximately 40 crops, valued at $4 billion annually; and

WHEREAS, California ranks high in the nation in honey production; and

WHEREAS, Assuming pure European stock can still be produced in California after Africanized bees become established, research has shown that the European bees may be unable to compete with a potentially high density of wild Africanized bees foraging on the limited pollen and nectar sources; and

WHEREAS, Africanized bees could have a serious effect on the commercial beekeeping industry for queen and package bee production as well as honey production; and

WHEREAS, A substantial number of cases have been reported in which animals and people have been severely or fatally stung because of the abundance and special behavioral characteristics of the Africanized bee; and

WHEREAS, The public could encounter Africanized bees in the form of wild colonies and swarms in urban and suburban areas as well as rural areas where increased incidences of stinging could occur; and

WHEREAS, Public awareness programs, as well as continuous permanent programs to control wild colonies of Africanized bees would need to be established by public agencies at a great expense to the taxpayer; and

WHEREAS, To date, the Africanized bee has not been eradicated from any area in which it has become established; and

WHEREAS, The United States Department of Agriculture's Agriculture Research Service and Animal and Plant Health Inspection Service have developed the Africanized Bee Barrier Proposal not as the ultimate solution, but as a way to provide our scientists with the time needed for research to be completed to provide a long-term genetic solution; and

WHEREAS, Recent sightings indicate that the Africanized bee has migrated up to the barrier point proposed by the United States Department of Agriculture which may make any delay in implementing the barrier proposal more hazardous; 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 give their full support to the speedy implementation of the United States Department of Agriculture's Africanized Bee Barrier Proposal by appropriating the funds necessary from the department's current 1986–87 budget; and be it further

Resolved, That the Legislature respectfully memorializes the legislatures of the States of Alabama, Arizona, Florida, Illinois, Kansas, Louisiana, North Carolina, Ohio, South Carolina, and Texas to act expeditiously in memorializing the President and the Congress of the United States to give their full support to the speedy implementation of the United States Department of Agriculture's Africanized Bee Barrier Proposal; 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 respective leaders of the legislatures of the States of Alabama, Arizona, Florida, Illinois, Kansas, Louisiana, North Carolina, Ohio, South Carolina, and Texas.

RESOLUTION CHAPTER 11

Senate Concurrent Resolution No. 20—Relative to proclaiming Black American History Month.

[Filed with Secretary of State February 25, 1987.]

WHEREAS, Black people have made significant contributions to the economic, social, and political history of the nation and the State of California; and

WHEREAS, Carter Goodwin Woodson, a Black historian, recognized these accomplishments and, on February 7, 1926, he organized one of the cultural landmarks of contemporary America, "Negro History Week"; and

WHEREAS, In the 1960's, during the height of the Civil Rights movement, "Negro History Week" was expanded to "Black History Month"; and

WHEREAS, Innumerable Blacks have contributed to the history of California, including the first Black elected to the California Legislature, former Assemblyman Frederick Roberts, who served his

constituents from 1918 to 1934; and

WHEREAS, California realized a dream and was among the first states to commemorate, in the form of a holiday, the birthday of one of America's greatest leaders, Martin Luther King, Jr.; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the month of February 1987 be proclaimed as Black American History Month; 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 12

Senate Concurrent Resolution No. 18—Relative to California Chiropractic Wellness Week.

[Filed with Secretary of State February 27, 1987]

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 the use of the body's own restorative powers; and

WHEREAS, The achievements and advancements the chiropractic profession has made to the improvement of the quality of life in its community is in the highest traditions of health care services; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Members recognize the care which chiropractors have provided to health care consumers of this state; and be it further

Resolved, That the Members designate the week of June 6 to 12, 1987, as "California Chiropractic Wellness Week"; and be it further

Resolved, That a suitably prepared copy of this resolution be transmitted to the President of the California Chiropractic Association, and to the Chair of the Board of Chiropractic Examiners.

RESOLUTION CHAPTER 13

Senate Concurrent Resolution No. 3—Relative to the Temporary Joint Rules of the Senate and the Assembly for the 1987–88 Regular Session.

[Filed with Secretary of State March 3, 1987]

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 1987–88 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, 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 the 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 to enter into such contracts with the Joint Legislative Budget Committee. Money received by the Joint Legislative Budget Committee pursuant to any such agreement shall be in augmentation of the current appropriation for the support of the Joint Legislative Budget Committee.

The provisions of 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 as many Members of the Senate as may be required to maintain equality in the number of Assembly Members and Senators on the committee, 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 five 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 17 until August 17. This recess shall not commence until the Budget Bill is enacted.

(4) Interim Study Recess—The Legislature shall be in recess from September 11 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 1 until August 1. 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 request 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.

(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 6 and no bill may be introduced in the second year of the regular session after February 19. 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 6	-	Last day for bills to be introduced.
(2) May 8	-	Last day for policy committees to report to fiscal committees fiscal bills introduced in their house.
(3) May 22	-	Last day for policy committees to report to the floor nonfiscal bills introduced in their house.
(4) June 12	-	Last day for policy committees to meet prior to June 29.
(5) June 19	-	Last day for fiscal committees to report to the floor bills introduced in their house.
(6) June 19	-	Last day for fiscal committees to meet and report bills prior to June 29.
(7) June 26	-	Last day for each house to pass bills introduced in their house.
(8) June 29	-	Committee meetings may resume.
(9) July 17	-	Last day for policy committees to report to fiscal committees fiscal bills introduced in the other house.

(10) Aug 21 - Last day for policy committees to meet and report bills.

(11) Aug 28 - Last day for fiscal committees to meet and report fiscal bills.

(12) Sept 11 - Last day for each house to pass bills.

(b) Even-numbered year:

(1) Jan 15 - 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 22 - 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 19 - Last day for bills to be introduced.

(5) Apr 15 - Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house.

(6) May 6 - Last day for policy committees to hear and report to the floor nonfiscal bills introduced in their house.

(7) May 27 - Last day for policy committees to meet and report bills prior to June 13.

(8) June 3 - Last day for fiscal committees to hear and report to the floor bills introduced in their house.

(9) June 3 - Last day for fiscal committees to meet and report bills prior to June 13.

(10) June 10 - Last day for each house to pass bills, other than the Budget Bill, introduced in their house.

(11) June 13 - Committee meetings may resume.

(12) July 1 - Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in the other house.

(13) Aug 5 - Last day for policy committees to meet and report bills.

(14) Aug 12	- Last day for fiscal committees to meet and report fiscal bills.
(15) Aug 31	- 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.

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 14

Senate Concurrent Resolution No. 15—Relative to the Joint Committee on Science and Technology.

[Filed with Secretary of State March 17, 1987.]

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.

(2) Ways to stimulate the introduction of new technologies into existing industries.

(3) The need to increase the quality of math and science instruction in public schools.

(4) Methods to maintain and enhance the high quality of scientific research in California's public universities.

(5) Problems related to capital formation and expanding investments in new industries.

(6) Government regulations and tax policies which affect the growth and emergence of high technology industries.

(7) 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 Committee on Rules may make money available from the Contingent Fund of the Senate as it deems necessary for expenses of the Joint Committee on Science and Technology and its members. Any expenditure of money shall be made in compliance with policies set forth by the Senate Committee on Rules and shall be subject to the approval of that committee. The Joint Committee on Science and Technology shall, within 15 days of authorization, and annually thereafter, present its annual budget to the Joint Committee on Rules for its review and comment.

(e) The Joint Committee on Science and Technology shall be terminated on November 30, 1988.

RESOLUTION CHAPTER 15

Senate Concurrent Resolution No. 28—Relative to the 75th Anniversary of the Girl Scouts of the U.S.A.

[Filed with Secretary of State March 17, 1987]

WHEREAS, The year 1987 marks the 75th Anniversary of the Girl Scouts of the U.S.A., and, upon this occasion, it is appropriate that special public attention be drawn to the organization for the invaluable contributions which it has provided to girls throughout the State of California and the nation; and

WHEREAS, Under the anniversary theme "Tradition With a Future," the celebration will provide a framework to highlight the achievements which Girl Scouts have made since 1912 and to explore the possibilities that await members in the future; and

WHEREAS, Founded in 1912 by Juliette Low, who believed that "Girl Guides and Girl Scouts could contribute to international understanding and world peace," Girl Scouts of the U.S.A. has established and maintained a commitment to meeting the changing needs of girls; and

WHEREAS, The programs of Girl Scouts provide a spirit of adventure that challenges Girl Scouts to learn new skills, to try new activities, and to explore other cultures while providing service and good citizenship to their communities and neighborhoods; and

WHEREAS, Girl Scouts of the U.S.A. boasts of approximately three million members, and, in the State of California, more than 200,000 girls and 60,000 volunteer leaders are active in the organization; and

WHEREAS, On March 12, 1987, the worldwide Promise Circle will be held and, during the period beginning March and concluding

December 31, 1987, each troop will provide to its community "Gifts of Service"; and

WHEREAS, In celebration of the 75th Anniversary of Girl Scouts, the United States Postal Service will issue a commemorative stamp; and

WHEREAS, Among the 17 women currently serving in the California Legislature nine are or were involved in Girl Scouts, including Senators Marian Bergeson and Diane E. Watson and Assembly Members Doris Allen, Delaine Eastin, Bev Hansen, Marian W. La Follette, Sunny Mojonnier, Gwen Moore, and Maxine Waters; and

WHEREAS, The 75th Anniversary of the Girl Scouts of the U.S.A. will draw special public attention to the proud history of the organization, and the State of California has been the direct beneficiary of this long tradition; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That they take pleasure in recognizing the Girl Scouts of the U.S.A. on the celebration of its 75th Anniversary, acknowledge with great pride the role which the organization has played in shaping the quality and character of life of its members in the State of California and the United States, and encourage the people of California to participate in activities and celebrations appropriate to this occasion.

RESOLUTION CHAPTER 16

Assembly Concurrent Resolution No. 19—Relative to Delta Sigma Theta Sorority, Inc.

[Filed with Secretary of State March 17, 1987.]

WHEREAS, The Delta Sigma Theta Sorority was founded in 1913 at Howard University by 22 coeds, who envisioned an organization of college women pledged to serious endeavors and community service; and

WHEREAS, In 1930, Delta Sigma Theta Sorority, Inc. was incorporated, and the record of incorporation is filed in the Library of Congress in Washington, D.C.; and

WHEREAS, Delta Sigma Theta Sorority, Inc. demonstrates a vital concern for social welfare, academic excellence, and cultural enrichment, and its five-point program includes educational development, economic development, international awareness and involvement, physical and mental health, and political awareness and involvement; and

WHEREAS, In February 1985, Delta Sigma Theta Sorority, Inc. launched a massive campaign with its undergraduate chapters to help young persons between seven and 15 years of age to "Just Say

No To Drugs"; and

WHEREAS, Delta Sigma Theta Sorority, Inc. has played an active role in the Assault On Illiteracy Project (AOIP) and is an active participant in Project Plus (Project Literacy—U.S.); and

WHEREAS, There are 125,000 members and more than 725 of Delta Sigma Theta Sorority, Inc. chapters across the United States and in the Republic of Haiti, Liberia, and West Germany; and

WHEREAS, The Far West Region of Delta Sigma Theta Sorority, Inc. will hold its second Regionwide Social Action Conference; and

WHEREAS, The Far West Region of Delta Sigma Theta Sorority, Inc. will hold Social Action Conferences in the seven states of the Far West Region, which includes Alaska, Arizona, California, Hawaii, Nevada, Oregon, and Washington; and

WHEREAS, Representatives of the 43 California Chapters of Delta Sigma Theta Sorority, Inc. will meet in Sacramento at the State Capitol Building from March 14 through 16, 1987, for the California Social Action Conference: "Leadership and Legislation in State Government"; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Delta Sigma Theta Sorority, Inc. be commended for its exemplary record of civic leadership and participation, and that the delegates to the California Social Action Conference, "Leadership and Legislation in State Government," be extended a warm welcome to Sacramento; and be it further

Resolved, That March 16, 1987, is hereby proclaimed as "Delta Day" in recognition of the many achievements and contributions to the common good of Delta Sigma Theta Sorority, Inc.; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to Delta Sigma Theta Sorority, Inc.

RESOLUTION CHAPTER 17

Assembly Concurrent Resolution No. 34—Relative to the California State Police.

[Filed with Secretary of State March 17, 1987]

WHEREAS, The California State Police is responsible for providing complete police services to the occupants and visitors of state facilities and property; and

WHEREAS, The California State Police provides protective services to the Governor, the constitutional officers, and Members of the Legislature; and

WHEREAS, The California State Police investigates crimes or accidents involving state employees and visitors on state property and reports these investigations as appropriate; and

WHEREAS, The California State Police investigates threats made against the Governor and constitutional officers and arrests those persons making threats; and

WHEREAS, The California State Police investigates bomb threats, and searches for and disposes of any explosive ordinance; and

WHEREAS, The California State Police maintains security and order at public ceremonies, meetings, and hearings as required; and

WHEREAS, The California State Police provides air surveillance and ground patrol of the State Water Project; and

WHEREAS, The California State Police reviews emergency and crime prevention plans prepared by other state agencies; and

WHEREAS, The California State Police provides training to other state agencies in the implementation of emergency procedures and crime prevention techniques; and

WHEREAS, The California State Police provides training to other law enforcement agencies from throughout the nation in executive protection; and

WHEREAS, The California State Police is recognized both nationally and internationally for its expertise in executive protection; and

WHEREAS, The California State Police was formed on March 15, 1887; and

WHEREAS, March 15, 1987, marks the 100th anniversary of the formation of the California State Police; and

WHEREAS, 1987 is the Centennial Year of the California State Police; and

WHEREAS, The men and women of the California State Police are the embodiment of the motto, "Dedicated to Service;" now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby congratulates the California State Police on their 100th anniversary and extends its highest commendation to them for their dedicated service and wishes them continued success in the future; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the California State Police.

RESOLUTION CHAPTER 18

Assembly Concurrent Resolution No. 38—Relative to Poison Prevention Week.

[Filed with Secretary of State March 17, 1987]

WHEREAS, All citizens should be made aware of the ever-present dangers posed by potentially poisonous household substances; and

WHEREAS, Our youngsters too often have access to

commonly-used drugs and medicines and to such potentially toxic household products as polishes, cleaners, lighter fluids, anti-freeze, and paint solvents; and

WHEREAS, The informational and educational achievements of many of our state's official and voluntary organizations, such as the Emergency Medical Services Authority and Poison Control Centers, have been instrumental in awakening individuals to the need for poison prevention, including the proper use of child-protective packaging; and

WHEREAS, The Emergency Medical Services Authority endorses and supports the efforts of Regional Poison Control Centers to promote the theme "Children act fast...so do poisons" in their public awareness campaigns to heighten the public's knowledge of the dangers of poisonous household substances; and

WHEREAS, Included in the Children's Health Initiative is funding to provide toll-free telephone lines and staffing for Regional Poison Control Centers; 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 proclaims the week of March 15 to 21, 1987, as Poison Prevention Week in California, and calls upon all those official and voluntary organizations that have done so much in the field of poison prevention to continue their efforts until poisoning is eliminated as a significant health hazard to children.

RESOLUTION CHAPTER 19

Assembly Joint Resolution No. 3—Relative to California exporters.

[Filed with Secretary of State March 24, 1987]

WHEREAS, California is the nation's leading exporter, with $32.4 billion worth of goods exported through its ports during 1985 alone; and

WHEREAS, Exports are vital to this state's employment, tax revenue base, and economic growth, with trade projected to equal one-quarter of the state's entire output by the year 2000; and

WHEREAS, California is the world's leading center for high-technology development and production, employing more than 30 percent of the nation's total work force and contributing to the productivity of virtually every other industry sector; and

WHEREAS, High-technology firms, especially those which are highly dependent on overseas markets, are particularly impacted by export controls, and rely strongly on an export climate as unrestrained as possible; and

WHEREAS, Under the Federal Export Administration Act, certain exports may be restricted to prevent diversion of American

technology to unfriendly nations; and

WHEREAS, Exporters of high-technology products subject to these restrictions must obtain a special license, known as a validated license, to export their product from the United States Department of Commerce; and

WHEREAS, A validated license is subject to review by some or all of the following agencies: the United States Department of Commerce, the Department of Defense, the United States Customs Bureau, and COCOM (a coordinating committee composed of a group of 15 countries which coordinate export controls for security purposes; and

WHEREAS, Each of these agencies and organizations have their own methods of review which may cause further delays in the licensing process; and

WHEREAS, The United States Department of Commerce reports that 40 percent of all export license applications received by their department each year are filed by California exporters, who are thousands of miles and three time zones away, and are therefore at a disadvantage when attempting to provide and receive necessary information in order to comply with the export regulations, receiving limited assistance from the Department of Commerce's International Trade Administration offices; and

WHEREAS, Many exporters find it difficult to interpret the massive volumes of Export Administration Regulations and the tens of thousands of entries under the Commodity Control List; and

WHEREAS, Providing the required supporting documentation can be burdensome, especially when substantial technical information is needed or where foreign countries must provide certifications; and

WHEREAS, There is clearly overlapping jurisdiction over the development and enforcement of export control policies between the Department of Commerce, the Department of Defense, and the United States Customs Bureau, leading to delays in license approval and difficulties in resolving compliance investigations; and

WHEREAS, The cumulative effects of these burdensome bureaucratic licensing procedures increases the cost of doing business as an exporter in California, not only by necessitating the employment of staff and consultants simply to manage the paperwork, but also through contractual penalties for delayed deliveries and the loss of current and future business opportunities; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the California Legislature respectfully memorializes the President of the United States, Secretary of the Department of Commerce, Secretary of the Department of Defense, Director of the United States Customs Bureau, and the Congress of the United States to streamline the export licensing process, consistent with national security, by doing all of the following:

(a) Reducing the licensing requirements for exports to friendly

countries which maintain similar export controls.

(b) Establishing a comprehensive operations license to facilitate multiple transactions with foreign subsidiaries, affiliates, vendors, joint ventures, and licensees.

(c) Streamlining the interagency review procedures and approval time; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Secretary of the Department of Defense, the Secretary of the Department of Commerce, the Director of the United States Customs Bureau, the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 20

Senate Concurrent Resolution No. 35—Relative to the "Army Days" celebration.

[Filed with Secretary of State April 2, 1987]

WHEREAS, The United States Army was formed by the Continental Congress on June 14, 1775, and reinforced by volunteer militia; and

WHEREAS, The United States Army, which today is comprised of the Regular Army, the Army National Guard, and the Army Reserve, has often been called upon during the last 212 years to defend America's freedom; and

WHEREAS, The United States Army is a vital force in the preservation of those ideals as embodied in the United States Constitution; and

WHEREAS, The individual members of the United States Army have given their limbs, lives, and well-being for those ideals as envisioned in the United States Constitution; and

WHEREAS, The role of the United States Army during times of natural disaster and emergency has historically been one of relief and assistance to the citizens of the San Francisco Bay area, the State of California, and the nation; and

WHEREAS, The Sixth Army, which is headquartered in San Francisco, regionally represents the United States Army as a whole; and

WHEREAS, It is appropriate that the people of the State of California acknowledge the significance of the United States Army and its historic connections with the citizens of California, and in particular the contribution of the Sixth Army, during the "Army Days" celebration April 2 to 5, 1987; and

WHEREAS, The United States Army will be honored in northern

California with parades, military balls, military reviews, exhibits, displays of Army equipment, demonstrations, band performances, a memorial ceremony, and the "Sentinels of Freedom" pageant performance; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That April 2 to 5, 1987, be proclaimed as "Army Days" throughout the State of California; and be it further

Resolved, That the Legislature urges all citizens to join in the celebrations honoring those who have served and are serving their country in the United States Army.

RESOLUTION CHAPTER 21

Assembly Concurrent Resolution No. 28—Relative to Earthquake Preparedness Month.

[Filed with Secretary of State April 3, 1987]

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 month of April 1987 as California Earthquake Preparedness Month and urges all Californians to engage in appropriate earthquake safety-related activities during that month; 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 22

Assembly Concurrent Resolution No. 23—Relative to Women's History Month.

[Filed with Secretary of State April 9, 1987]

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 Month provides an opportunity for schools and communities to focus attention on the heritage of women's contributions to the United States, and for students, in particular, to benefit from an awareness of these contributions; and

WHEREAS, Women's History Month includes International Women's Day, March 8, originally 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 Month 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 contemporary women to make tomorrow's history by advocating an end to physical and sexual assault, discrimination in the work force, and the feminization of poverty, and by advocating 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 and 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 the Members 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, 1987; and be it further

Resolved, That the month of March 1987 be designated as Women's History Month; 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 to the Chair of the California State Commission on the Status of Women for distribution to appropriate organizations.

RESOLUTION CHAPTER 23.

Assembly Concurrent Resolution No. 51—Relative to Senior Citizen's Achievement Week.

[Filed with Secretary of State April 15, 1987]

WHEREAS, The statewide average of Californians over age 65 is approximately 9 percent of the total population and is expected to reach nearly 12 percent by the year 2000; and

WHEREAS, The fastest growing segment of the American population is the group over 75 years of age; and

WHEREAS, Senior citizens make significant contributions to all aspects of society and offer special insights and skills; and

WHEREAS, Senior citizens bring a wealth of diverse experience and serve as an example to all Californians through their strong desire to participate fully in the life and activities of our state; and

WHEREAS, Older Californians contribute greatly to society through volunteerism and sharing their wisdom and experiences with disadvantaged youth, homebound, and many other segments of our society; and

WHEREAS, Society often focuses on the negative aspects of growing older; and

WHEREAS, The media has a powerful ability to impact the general public's attitudes regarding the life experiences of senior citizens; and

WHEREAS, More positive portrayals of senior citizens in the media will portray the larger segment of our senior citizen population more accurately; and

WHEREAS, The recent commercials depicting a competent senior citizen employed by MacDonald's has generated more favorable attitudes toward the abilities of older Americans; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the business, entertainment, and news industries recognize and encourage accurate portrayals that transcend positive images of senior citizens; and be it further

Resolved, That the California Legislature declares the week of May 4 through May 10 as Senior Citizen's Achievement Week with local governments and the media jointly sponsoring events that will encourage more positive portrayals of senior citizens and which recognize the many valuable contributions senior citizens make to society.

RESOLUTION CHAPTER 24

Assembly Concurrent Resolution No. 6—Relative to the Joint Oversight Committee on GAIN Implementation.

[Filed with Secretary of State April 16, 1987]

WHEREAS, The Legislature enacted major welfare reform legislation that established a statewide program, Greater Avenues for Independence (GAIN), to help persons receiving assistance pursuant to the Aid to Families with Dependent Children program become economically independent and self-sufficient; and

WHEREAS, GAIN is a statewide effort requiring the active participation and cooperation of state, local, and private agencies, including the State Department of Social Services, the State Department of Education, the Employment Development Department, the State Job Training Coordinating Council, the Chancellor's Office of the Community Colleges, county welfare departments, private industry councils, JTPA service delivery areas, school districts, community colleges, and public and private child care providers; and

WHEREAS, The success of the GAIN program depends on the ability of these organizations to foster and encourage the active participation of the persons they represent, including (a) AFDC benefits recipients, so that they may benefit from the wide array of educational and training opportunities available to them, (b) county welfare line staff, so that they will help GAIN participants become economically self-sufficient, (c) private industry employers, so that they will provide on-the-job training and unsubsidized jobs to GAIN participants, (d) public and private job training providers so that they will develop training programs that are linked to unsubsidized jobs, and (e) educational institutions so that they will provide GAIN participants with the educational achievement necessary to compete effectively in the labor market; and

WHEREAS, Participation in the GAIN program depends on the availability of safe and adequate child care to be provided by programs cooperatively developed by the State Department of Education, the State Department of Social Services, county welfare departments, local child care resource and referral networks, and public and private child care providers; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Joint Oversight Committee on GAIN Implementation is hereby established and authorized to do all of the following:

1. Conduct hearings and develop recommendations to address concerns in the implementation of the GAIN program.

2. Develop policy recommendations on GAIN-related issues for consideration by the Legislature.

3. Develop recommendations on better coordination of public and

private resources to more effectively help persons receiving AFDC benefits become economically independent and self-sufficient.

4. Develop recommendations on the level of funding required to effectively implement methods of achieving the goals for which the GAIN program is designed to meet; and be it further

Resolved, That the committee shall consist of six Members of the Assembly, appointed by the Speaker thereof, and six Members of the Senate, appointed by the Senate Committee on Rules; and be it further

Resolved, That the committee and its members shall have and exercise all rights, duties, and powers conferred upon joint committees and their members by the provisions of the Joint Rules of the Assembly and Senate, 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 powers and duties 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 Assembly Committee on Rules may make such money available from the Contingent Fund of the Assembly as it deems necessary for the expenses of the committee and its members. Any such expenditure of funds shall be made in compliance with policies set forth by the Assembly Committee on Rules and shall be subject to the approval of the Assembly Committee on Rules; and be it further

Resolved, That the committee shall, within 15 days of authorization, and annually thereafter, present its annual budget to the Joint Committee on Rules 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 1987–88 Regular Session.

RESOLUTION CHAPTER 25

Assembly Concurrent Resolution No. 24—Relative to Holocaust Memorial Week.

[Filed with Secretary of State April 22, 1987]

WHEREAS, The Holocaust was a human tragedy of proportions the world had never before witnessed; and

WHEREAS, There are some who dispute that the Holocaust ever occurred, but the world must be reminded of the horrible reality of the Holocaust so that it can never happen again; and

WHEREAS, The United States Memorial Council has designated

the week of April 26 through May 3, 1987, as "Holocaust Memorial Week—Days of Remembrance" for the victims of the Holocaust; and

WHEREAS, April 26, 1987, 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 26 to May 3, 1987, is proclaimed as Holocaust Memorial Week in California; and be it further

Resolved, That Californians are urged to appropriately observe these days of remembrance for victims of the Holocaust; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 26

Senate Joint Resolution No. 4—Relative to national uniform appliance energy efficiency standards.

[Filed with Secretary of State April 27, 1987]

WHEREAS, Energy conservation has proven to be an important and cost-effective way of achieving energy efficiency; and

WHEREAS, Energy conservation can continue to protect the United States from fluctuations in the world oil market; and

WHEREAS, Household appliances consume about 14 percent of all energy used in California, costing ratepayers approximately $6.5 billion per year; and

WHEREAS, California energy efficiency standards for residential appliances have been responsible for approximately 50 percent of all electricity savings achieved by the state in the past decade; and

WHEREAS, Congress is considering the National Appliance Energy Conservation Act of 1987 to impose national uniform appliance energy efficiency standards which would be generally compatible with existing California standards; and

WHEREAS, The act would bring about significant energy savings nationwide through improved appliance efficiency and would result in savings to the nation's consumers of an estimated $28 billion over the life of appliances purchased during the next 20 years; and

WHEREAS, These national standards will benefit gas and electric utilities by allowing them to forecast energy savings more accurately, and thus reduce wasted investment in new plants and other facilities; and

WHEREAS, Appliance manufacturers, consumer groups, and other affected interests have reached a significant agreement on the desirability of having national uniform appliance energy efficiency

standards; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to support and enact the National Appliance Energy Conservation Act of 1987 to establish national uniform appliance energy efficiency standards; and be it further

Resolved, That provision be made in the act for states to apply for and, for good cause, be granted an exemption to impose stricter standards in order to respond to energy problems such as high electricity, gas, and oil prices, unusual climatic situations, or adverse environmental or health and safety conditions that can be alleviated by increased conservation of the use of energy by appliances; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Secretary of Energy, to the Governor, and to the Chairperson of the State Energy Resources Conservation and Development Commission.

RESOLUTION CHAPTER 27

Assembly Joint Resolution No. 9—Relative to air traffic control facilities at Whiteman Airport.

[Filed with Secretary of State April 27, 1987]

WHEREAS, Whiteman Airport, located in the community of Pacoima in the San Fernando Valley area of the County of Los Angeles, has experienced a substantial increase in use by general aviation aircraft in recent years, and this increased use is likely to continue; and

WHEREAS, The San Fernando Valley area has become increasingly urbanized, resulting both in congested air traffic corridors and a need to better control air traffic to protect the safety of the more than one million residents of the valley; and

WHEREAS, Whiteman Airport is the only airport in the San Fernando Valley without a control tower; and

WHEREAS, Recently the pilot of a Continental Airlines jetliner confused Whiteman Airport with nearby Burbank-Glendale-Pasadena Airport, nearly landing at Whiteman Airport, thus barely avoiding what could have been a major catastrophe; and

WHEREAS, On another occasion, a private plane crashed into a warehouse near Whiteman Airport, resulting in one fatality and

substantial property damage; and

WHEREAS, The approach patterns to Whiteman Airport and Burbank-Glendale-Pasadena Airport overlap, contributing to this confusion; and

WHEREAS, A control tower at Whiteman Airport staffed by Federal Aviation Administration air traffic controllers is needed to properly guide aircraft and ensure the safety both of the pilots and the residents of the San Fernando Valley; 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 establish and staff an airport control tower at Whiteman Airport in the San Fernando Valley area of Los Angeles County; 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 Federal Aviation Administration.

RESOLUTION CHAPTER 28

Assembly Concurrent Resolution No. 17—Relative to the National Day of Prayer.

[Filed with Secretary of State April 27, 1987]

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 7, 1987, 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 7, 1987, 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 29

Assembly Concurrent Resolution No. 20—Relative to Senior Citizens' Dental Health Week.

[Filed with Secretary of State April 27, 1987]

WHEREAS, By the year 2000, the number of Californians aged 65 to 75 is expected to increase by 23 percent; and

WHEREAS, The number of those aged 75 and older, growing faster than any other population segment, will increase in that time by 40 percent; and

WHEREAS, The well-being and independence of senior citizens are greatly affected by their overall health; and

WHEREAS, Improving or maintaining good overall health is in part dependent upon proper dental health care; and

WHEREAS, The need for dental care is acute, dentistry is not subsidized with public funds at a level comparable to that of medical care coverage and no dental coverage at all is provided under Medicare; and

WHEREAS, The level of senior citizens' access to necessary dental health care is becoming more limited due to inadequate funding; and

WHEREAS, The proclamation of May 17 to 23, 1987, as Senior Citizens' Dental Health Week would give attention to, and increase awareness of, the special dental health needs of seniors; and

WHEREAS, For this reason Senior Citizens' Dental Health Week

has been established at the national level by the American Dental Association and at the state level by the California Dental Association; 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 17 to 23, 1987, as Senior Citizens' Dental Health Week; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, the California Commission on Aging, the California Senior Legislature, and the California Dental Association.

RESOLUTION CHAPTER 30

Assembly Concurrent Resolution No. 62—Relative to Joint Rule 61.

[Filed with Secretary of State April 27, 1987]

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 1987–88 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 6	-	Last day for bills to be introduced.
(2) May 22	-	Last day for policy committees to report to fiscal committees fiscal bills introduced in their house.
(3) May 22	-	Last day for policy committees to report to the floor nonfiscal bills introduced in their house.
(4) June 12	-	Last day for policy committees to meet prior to June 29.
(5) June 19	-	Last day for fiscal committees to report to the floor bills introduced in their house.
(6) June 19	-	Last day for fiscal committees to

meet and report bills prior to June 29.

(7) June 26 - Last day for each house to pass bills introduced in their house.

(8) June 29 - Committee meetings may resume.

(9) July 17 - Last day for policy committees to report to fiscal committees fiscal bills introduced in the other house.

(10) Aug 21 - Last day for policy committees to meet and report bills.

(11) Aug 28 - Last day for fiscal committees to meet and report fiscal bills.

(12) Sept 11 - Last day for each house to pass bills.

(b) Even-numbered year:

(1) Jan 15 - 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 22 - 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 19 - Last day for bills to be introduced.

(5) Apr 15 - Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house.

(6) May 6 - Last day for policy committees to hear and report to the floor nonfiscal bills introduced in their house.

(7) May 27 - Last day for policy committees to meet and report bills prior to June 13.

(8) June 3 - Last day for fiscal committees to hear and report to the floor bills introduced in their house.

(9) June 3 - Last day for fiscal committees to meet and report bills prior to June 13.

(10) June 10	-	Last day for each house to pass bills, other than the Budget Bill, introduced in their house.
(11) June 13	-	Committee meetings may resume.
(12) July 1	-	Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in the other house.
(13) Aug 5	-	Last day for policy committees to meet and report bills.
(14) Aug 12	-	Last day for fiscal committees to meet and report fiscal bills.
(15) Aug 31	-	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 31

Assembly Concurrent Resolution No. 58—Relative to deaf awareness month.

[Filed with Secretary of State April 29, 1987]

WHEREAS, Approximately two million residents of the State of California are deaf, including hard of hearing or otherwise hearing-impaired individuals; and

WHEREAS, The industrious, proud, determined, and creative deaf residents of California have, throughout history, achieved remarkable accomplishments and made enormous and invaluable contributions to their fellow citizens, our state, and our nation; and

WHEREAS, The California deaf community has consistently pioneered and paved the way for deaf communities of other states and nations to follow; and

WHEREAS, The deaf community has its own beautiful and expressive language, American Sign Language, and its own distinct identity and culture; and

WHEREAS, California was the first state in which deaf consumers came together to create, govern, direct, and staff their own service and advocacy agencies—"of, by, and for" deaf people—to serve the needs and advocate the interests of people with hearing losses; and

WHEREAS, These "Deaf Service Agencies" have developed and refined services and service delivery strategies that have become models for the rest of the nation and the world; and

WHEREAS, These agencies—including the California Association of the Deaf (CAD); Deaf Community Services (DCS) in San Diego; the Deaf Counseling, Advocacy, and Referral Agency (DCARA) in the San Francisco Bay Area; the Greater Los Angeles Council on Deafness (GLAD) in Los Angeles; the Island Service Center (ISC) in Riverside; the NorCal Center on Deafness (COD) in Sacramento and Stockton; Orange County Deaf (OC-DEAF) in Orange County; Self Help for Hard of Hearing People (SHHH); and Valley Advocacy and Communications Center (VACC) in Fresno—have done an exceptional job of helping public and private service providers become more meaningful and fully accessible to deaf consumers; and

WHEREAS, The agencies have also provided demonstrably effective services and advocacy that have empowered their deaf clients and members to live and function with independence, dignity, and equality; and

WHEREAS, Deafness, a communicational disability, is the most prevalent, and yet one of the least visible or understood, disabilities; and

WHEREAS, Communicational and attitudinal barriers prejudice deaf people far more than their physical disabilities; and

WHEREAS, There is a compelling need to alert and educate the general public with respect to the unique problems and special needs of deaf people, and with respect to technologies, aides, and strategies that can eliminate barriers to effective communication with deaf people; and

WHEREAS, The deaf citizens of the State of California, constituting a significant portion of the deaf population of the United States, continue to wage their valiant, but no longer silent struggle to overcome discrimination, communicational barriers to services and opportunities, and attitudinal barriers to effective participation in society's mainstream; and

WHEREAS, Deaf Californians are eager to share with the general public their pride of identity, language, culture, and accomplishments; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the month of May 1987, be proclaimed as "Deaf Awareness Month" throughout the State of California, as a special effort to educate the general public with respect to the special needs and problems of deaf people, the tools and strategies that permit effective communication and interaction with deaf people, the achievements and aspirations of deaf people, and the need for continued and expanded efforts to provide deaf people with meaningful access to all publicly supported or provided services and programs; and be it further

Resolved, That the Legislature commends and acknowledges the special and innovative contributions of agencies "of, by, and for the deaf" such as CAD, DCS, DCARA, GLAD, COD, OC-DEAF, SHHH, and VACC in ensuring equal access to services for all deaf persons; and be it further

Resolved, That all service providers, public and private, be called upon to redouble their efforts to plan for and provide full and meaningful program access to all deaf consumers, by working with deaf service agencies; and be it further

Resolved, That the Chief Clerk of the Assembly transmit suitably prepared copies of this resolution to the author of this resolution for appropriate distribution.

RESOLUTION CHAPTER 32

Assembly Concurrent Resolution No. 2—Relative to the Metropolitan Transportation Commission.

[Filed with Secretary of State May 4, 1987]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Metropolitan Transportation Commission is hereby requested to adopt and update annually a five-year financial management plan for the Alameda-Contra Costa Transit District, the San Francisco Bay Area Rapid Transit District, and the San Francisco Municipal Railway System, which includes an estimate of revenues and expenditures for each operator for each year covered by the plan.

The plan should include recommendations for resolving anticipated funding shortfalls.

Estimated expenditures should be based upon all of the following:

(a) The committed level of service identified in each operator's annual five-year short range operating plan.

(b) The level of transit service determined, jointly by the commission and the operators, to be vital. The determination of vital service should be based upon the level of service provided or committed to being provided as of July 1, 1979, and a review of service effectiveness and efficiency systemwide; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Metropolitan Transportation Commission.

RESOLUTION CHAPTER 33

Senate Concurrent Resolution No. 23—Relative to the Joint Committee on Refugee Resettlement, International Migration, and Cooperative Development.

[Filed with Secretary of State May 7, 1987]

WHEREAS, Since 1975, more than 400,000 refugees and immigrants have resettled in the State of California; and

WHEREAS, The Immigration Reform and Control Act of 1986 (Public Law 99-603) provides for the legalization of an estimated 2,000,000 undocumented residents in the State of California and the imposition of penalties for hiring undocumented residents; and

WHEREAS, There is a high probability that there will be future infusions of refugees and immigrants into the state; and

WHEREAS, Refugee and immigrant newcomers desire to become contributing members of their adopted country as quickly as possible and require a range of services and protection from discrimination into our society; and

WHEREAS, Addressing these needs will require a joint effort by state and local public and private entities; and

WHEREAS, The State of California has a strong commitment and obligation to ensure a healthy environment both for the newcomers and for the residents already within its borders; and

WHEREAS, Although the newcomers are primarily a federal responsibility, it is in the best interests of the State of California to maintain a capacity for assisting those already here and for meeting the needs of future refugees and immigrants to the state; and

WHEREAS, The Legislature has the responsibility for budgetary and policy concerns that affect those refugees and immigrants who reside in the state; and

WHEREAS, It is in the best interests of all citizens of the state for the Legislature to maintain strong leadership in forming state policy and impacting federal policy and budget decisions; and

WHEREAS, The varied backgrounds represented by these refugees and immigrants provide an opportunity for California's industries to benefit from their special skills, talent, and knowledge by applying their contributions to enhance the state's economy; and

WHEREAS, It is the responsibility of the Legislature to review the state's economic policies and how those policies can most effectively address the impact of international migration; and

WHEREAS, The broadened scope of international migration into California has increased the importance for the Legislature of becoming familiar with the economic health of foreign nations as it relates to immigration and domestic integration; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on Refugee Resettlement, International Migration, and Cooperative Development is hereby created, and authorized to do all of the following:

(a) Conduct hearings in high-impact counties and develop recommendations addressing specific concerns relating to international migration and the implementation of the Immigration Reform and Control Act of 1986;

(b) Develop policy recommendations on specific refugee and immigrant-related issues for consideration by the Legislature as well as by the United States Congress;

(c) Develop recommendations on better coordination of public and private resources for more effective integration of refugees and immigrants into the communities of California;

(d) Make recommendations on maximizing the federal moneys to which the state and local governments of California are entitled relative to the status and assimilation of refugees, immigrants, and undocumented residents;

(e) Provide a basic policy and fiscal analysis of the economic interrelationship between the State of California and foreign nations as it relates to international migration and domestic integration;

(f) Provide a forum for discussion of issues relating to cooperative development and the impact international fiscal policies have on both the health of the state's economy and the formulation of state policies as they affect international migration and domestic integration; and be it further

Resolved, That the committee shall consist of seven Members of the Senate, appointed by the Senate Committee on Rules, and seven Members of the Assembly, appointed by the Speaker of the Assembly; 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:

(a) To establish the following advisory councils to the joint committee:

(1) An advisory council on refugee resettlement to be composed of representatives of state and local government agencies and the refugee community, as well as private organizations directly involved with the resettlement, health, welfare, education, employment, and cultural adjustment of refugees.

(2) An advisory council on international migration to be composed of representatives of state and local government agencies and the immigrant community, as well as private organizations directly involved with the temporary and permanent status, health, welfare, education, employment, and cultural adjustment of immigrants.

(3) An advisory council on cooperative development to be composed of representatives of state and local government agencies and private entities directly involved with the study, development, or promotion of California's economy as it relates to immigration and domestic integration.

(b) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution; and be it further

Resolved, That the Senate Committee on Rules may make such money available from the Contingent Fund of the Senate as it deems necessary for expenses of the joint committee and its members and the advisory councils to the joint committee. Any expenditure of money shall be made in compliance with policies set forth by the Senate Committee on Rules and shall be subject to the approval of that committee. The joint committee shall, within 15 days of authorization, and annually thereafter, present its annual budget to the Joint Committee on Rules for its review and comment; and be

it further

Resolved, That the committee shall be terminated on November 30, 1988.

RESOLUTION CHAPTER 34

Assembly Concurrent Resolution No. 31—Relative to Toxic Awareness Week.

[Filed with Secretary of State May 11, 1987.]

WHEREAS, Three years 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 for 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 10, 1987, 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 to the Board of Supervisors of the County of Santa Barbara.

RESOLUTION CHAPTER 35

Assembly Concurrent Resolution No. 44—Relative to California Small Business Week.

[Filed with Secretary of State May 13, 1987.]

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 this state 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 to proclaim the week of May 11 through May 15, 1987, as California Small Business Week, in special recognition of the contributions which small businesswomen and businessmen have made, and will continue to make, to our state; and be it further.

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor of the State of California.

RESOLUTION CHAPTER 36

Senate Joint Resolution No. 1—Relative to transportation trust funds.

[Filed with Secretary of State May 18, 1987.]

WHEREAS, The allocation of federal highway and aviation trust funds are included in the unified federal budget; and

WHEREAS, The transportation trust fund, which consists primarily of user fees from fuel and excise taxes, is dedicated to the support and construction of the nation's transportation network; and

WHEREAS, The funds have not been allocated but have been left to accumulate in the unified budget; and

WHEREAS, The multibillion dollar surplus in the trust fund has cost, and is costing, the economy of the nation thousands of jobs, including an estimated 135,000 jobs in California; and

WHEREAS, The failure to allocate the trust fund and the restrictions on the expenditures authorized have required the deferment of projects in the state transportation improvement plan and have precluded additions of any needed new projects; and

WHEREAS, The accounting practice of using transportation trust funds to soften the appearance of the unified budget shortfall prevents California from addressing its transportation needs; 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 remove the highway and aviation trust funds from the unified federal budget; 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 37

Assembly Concurrent Resolution No. 61—Relative to Mental Health Month in California.

[Filed with Secretary of State May 19, 1987]

WHEREAS, The Legislature is increasingly aware of the treatment and support needs of the mentally disordered in California; and

WHEREAS, The attitudes of the general public toward this segment of our population are often stigmatizing and punitive; and

WHEREAS, There is hope and treatment for people who suffer from severe mental disorders such as schizophrenia, depressions, and other illnesses, thanks to biomedical research; and

WHEREAS, Being mentally healthy is as important as being physically fit; and

WHEREAS, There is a continuing need for community understanding and support from the general public; and

WHEREAS, The Mental Health Association in California is helping

patients, their families, and the public learn the facts about mental health and about the mentally disordered; and

WHEREAS, The Mental Health Association in California, in cooperation with other statewide groups and its own local chapters throughout the state, is developing a major campaign to change public attitudes toward mental disorders and encourage a more understanding and supportive climate for those who suffer from mental disorders; and

WHEREAS, Every year since 1953, May has been designated Mental Health Month in America; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby declares the month of May, Mental Health Month in California; and be it further

Resolved, That all citizens in California are encouraged to join the volunteers, staff, and supporters of the Mental Health Association in California and its local chapters in working for California's mental health during May and throughout the year; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Mental Health Association in California.

RESOLUTION CHAPTER 38

Assembly Concurrent Resolution No. 54—Relative to the maintenance of area boards on developmental disabilities.

[Filed with Secretary of State June 1, 1987.]

WHEREAS, Area boards on developmental disabilities were established by the Legislature as an integral part of the Lanterman Developmental Disabilities Services Act because the Legislature found that the legal, civil, and service rights of persons with developmental disabilities would not be adequately guaranteed throughout the state unless monitoring responsibility was established on a regional basis; and

WHEREAS, Area boards on developmental disabilities have successfully fulfilled their unique legal role in the developmental disabilities service system to systematically protect and advocate the rights of persons with developmental disabilities, to encourage the development of needed services of good quality, and to coordinate the delivery of services to prevent duplication, fragmentation of services, and unnecessary expenditures; and

WHEREAS, Area boards on developmental disabilities statewide have, since their inception in 1969, provided an invaluable service in improving the lives of countless persons with developmental disabilities, allowing them to lead more independent, productive, and normal lives; and

WHEREAS, The area boards on developmental disabilities are 100

percent federally funded, and further, federal developmental disabilities funds cannot be used to supplant nonfederal funds that would otherwise be made available for the purpose for which federal funds are provided; and

WHEREAS, The functions of and the use of federal funds for area boards on developmental disabilities are described in the 1987–89 California State Developmental Disabilities Plan, which has been approved by the California Health and Welfare Agency and the federal Department of Health and Human Services; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature supports the continued existence of the area board system in the State of California to ensure the ongoing protection of the legal, civil, and service rights of Californians with developmental disabilities; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, Secretary of Health and Welfare, all state developmental disabilities area boards, and the Director of Developmental Services.

RESOLUTION CHAPTER 39

Senate Concurrent Resolution No. 26—Relative to Rural Community Health Day.

[Filed with Secretary of State June 5, 1987]

WHEREAS, In 1975, the California Legislature found that there existed a severe shortage in health care service capabilities and that there were critically underserved rural and urban communities and populations in California; and

WHEREAS, As a result, the Legislature enacted two measures, in 1975 and in 1976, which improved the distribution of personnel trained in health care and the availability of health care to rural and underserved areas, in particular the special health care needs of the American Indians living in California; and

WHEREAS, In 1979, the Legislature addressed the health care needs of seasonal agricultural and migrant workers and their families and provided grants to clinics to ensure the continuation of free and community clinics lacking financial resources or unable to maintain minimum levels of service; and

WHEREAS, In 1983, the Legislature reinforced its commitment to providing quality rural and urban community health by requiring the State Department of Health Services first to prepare a statewide plan for providing health services to underserved rural and urban areas and underserved population groups, and then to implement the plan; and

WHEREAS, From 1975 to 1986, these laws have set up and put into operation 45 new nonprofit health centers and 26 satellite clinics and have maintained or restored services to 65 existing nonprofit health centers in underserved rural and urban areas of California; and

WHEREAS, Nonprofit health centers have recruited approximately 300 health professionals and have trained some 800 professional and paraprofessionals in the areas of corporate management, health delivery, and health administration; and

WHEREAS, Nonprofit health centers play a vital role in the local community economy by providing employment; and

WHEREAS, Nonprofit health centers improve the health status of their target populations and upgrade the health status of the general public and the environment through the delivery of health education, health awareness methodologies, and by providing a total of 1,015,000 primary health care patient visits yearly to Californians, most of whom have no other source of health care; and

WHEREAS, The purpose of this resolution is to acknowledge and to commemorate the 10th anniversary of California Rural and Community Health Day; and

WHEREAS, May 26, 1977, was originally proclaimed as "Rural Health Day" throughout the State of California and, as a result, May 26 has come to symbolize the people's commitment to quality rural and community health care; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the California State Legislature proclaims May 26, 1987, as "Rural and Community Health Day" throughout the state and urges citizens throughout California to celebrate such a noteworthy occasion with the appropriate ceremonies; and be it further

Resolved, That the Secretary of the Senate shall transmit copies of this resolution to the Governor, the Secretary of the State Health and Welfare Agency, the State Director of Health Services, and to the director of each county health department.

RESOLUTION CHAPTER 40

Senate Concurrent Resolution No. 39—Relative to the Joint Legislative Budget Committee.

[Filed with Secretary of State June 5, 1987]

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 1987, the sum of three million two hundred twenty-five thousand dollars ($3,225,000), or so much

thereof as may be necessary, from the Senate Contingent Fund, as provided by Provision 4 of Item 0110-001-001 of that act, and three million two hundred twenty-five thousand dollars ($3,225,000), or so much thereof as may be necessary, from the Assembly Contingent Fund, as provided by Provision 4 of Item 0120-011-001 of that act.

RESOLUTION CHAPTER 41

Assembly Concurrent Resolution No. 1— Relative to controlled substances.

[Filed with Secretary of State June 8, 1987.]

WHEREAS, The growing prevalence of crack use among youngsters has resulted in the emergence of crack as a major illegal drug in the past year; and

WHEREAS, Crack is cocaine which has been freebased with an alkaline solution into a smokeable form; and

WHEREAS, In addition to creating a more intense high, smoking crack is far less expensive and easier to acquire than cocaine; and

WHEREAS, Crack can lead to tragic health consequences, including seizures, coma, and death; and

WHEREAS, Although information is not available on the prevalence of crack, current cocaine use is at an all-time high among high school and college students; and

WHEREAS, Cocaine-related deaths and emergency room admittances have increased steadily since 1981, which may be due to smoking crack; and

WHEREAS, Crack is sold on the street or in crack houses, where a user can both buy and smoke the drug; and

WHEREAS, Children as young as 10 are using crack; and

WHEREAS, Crack presents a dangerous problem for police officers because of its highly addictive nature and its ability to induce extremely violent and criminal behavior; and

WHEREAS, Crack is a drug which dominates the user's life, overcoming such common values as personal health, eating, family life, and school; and

WHEREAS, Many young people become involved with criminal activity just to maintain their crack habit; and

WHEREAS, Schools are sending out weak and confusing messages in drug abuse prevention rather than stressing the real dangers of taking drugs; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the private sector and public safety officers are urged to sponsor and support crack awareness and prevention activities in public and private schools to encourage student participation in essay writing contests, poster contests, public

speaking debates, and other events to promote student awareness of the negative effects of crack; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the state and local chambers of commerce, local law enforcement agencies, and the State Department of Education for distribution to school districts and appropriate organizations and agencies.

RESOLUTION CHAPTER 42

Assembly Concurrent Resolution No. 8—Relative to vehicles.

[Filed with Secretary of State June 8, 1987]

WHEREAS, State Route 91 (the Riverside Freeway) is the primary highway between the metropolitan area of Riverside County and Orange County; and

WHEREAS, State Route 91 is a six lane freeway from Riverside to Corona, and an eight lane freeway from Corona into Orange County; and

WHEREAS, The population of metropolitan Riverside County is increasing at one of the highest rates in California; and

WHEREAS, Traffic on State Route 91 at the Riverside and Orange County Line has increased from an average of 65,000 vehicles daily in 1975 to an average of 135,000 vehicles daily in 1985; and

WHEREAS, Serious traffic congestion is occurring on State Route 91 during weekday morning and evening commute hours, between Riverside and the Orange County Line; and

WHEREAS, Traffic on State Route 91 between Corona and the Orange County Line is expected to increase to a daily average of 210,000 vehicles by the year 2005; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is requested to investigate the State Route 91 corridor in Riverside and Orange Counties and to submit a report to the Legislature by December 1987 which does all of the following:

(1) Identifies the limits and degree of congestion on State Route 91 and compares it with similar state freeway corridors;

(2) Identifies the causes of this congestion;

(3) Discusses alternative solutions to the problem, including, but not limited to, ramp metering, additional lanes, high-occupancy vehicle potential, and traffic systems management measures. This discussion shall provide an indication of "costs versus benefits" for each alternative considered;

(4) Discusses the funding issues involved when considering relative priorities and the overall funding situation within the Department of Transportation; and

(5) Recommends a course of action; and be it further

Resolved, That the Department of Transportation make use of all existing systems study findings and other available data on Route 91 to avoid redundancy, and to keep costs to a minimum, 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 43

Assembly Concurrent Resolution No. 49—Relative to the Joint Legislative Oversight Committee on Radioactive Disposal and Radioactive Waste Management.

[Filed with Secretary of State June 9, 1987]

Resolved by the Assembly of the State of California, the Senate thereof concurring, as follows:

1. The Joint Legislative Oversight Committee on Radioactive Disposal and Radioactive Waste Management is hereby created and authorized and directed to ascertain, study, and analyze all facts related to radioactive disposal and radioactive waste management, including, but not limited to, the operation, effect, administration, enforcement, and needed revision of any and all laws in any way bearing upon or relating to the subject of this resolution, and to report thereon to the Legislature, including in the report its recommendations of appropriate legislation.

2. 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. Vacancies occurring in the membership of the committee shall be filled by the appointing power.

3. The committee is authorized to act during this session of the Legislature, including any recess, until November 30, 1988.

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 Assembly Committee on Rules may make such money available from the Contingent Fund of the Assembly as it determines is necessary for expenses of the committee and the committee's members. Any expenditure of these funds shall be made in compliance with policies set forth by the Assembly Committee on Rules and is subject to the approval of the Assembly Committee on Rules.

6. The existence of the committee shall terminate on November 30, 1988.

RESOLUTION CHAPTER 44

Assembly Concurrent Resolution No. 45—Relative to California School Bus Awareness Month.

[Filed with Secretary of State June 15, 1987]

WHEREAS, California's greatest resource is its children and their education is our investment in the future; and

WHEREAS, More than two and a half million students are transported to and from school each day; and

WHEREAS, Urban and rural roadway conditions require motorists to be extremely vigilant when traveling near school buses; and

WHEREAS, The California Association of School Transportation Officials is a professional organization dedicated to transporting children safely; now, therefore, be it

Resolved by the Assembly of the State of California, and the Senate thereof concurring, That the Legislature hereby designates the four-week period of August 30 through September 26, 1987, as California School Bus Safety Awareness Month; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the California Association of School Transportation Officials.

RESOLUTION CHAPTER 45

Assembly Concurrent Resolution No. 75—Relative to commending the Los Angeles Lakers.

[Filed with Secretary of State June 19, 1987]

WHEREAS, The magnificently talented Los Angeles Lakers basketball club, which is truly one of California's most impressive natural resources, has brought another world championship to this state, and it is appropriate to honor and commend the Lakers at this time; and

WHEREAS, On June 14, 1987, the Lakers completed their championship season with a stirring victory on their home court at the Forum in Inglewood, thus eliminating their archrivals, the Boston Celtics, in the NBA championship series, four games to two; and

WHEREAS, Although it is the Lakers' "Showtime" fast-breaking style that is often publicized, it is through their hard work and

tenacious defense, performed under the tutelage of Head Coach Pat Riley, that the Lakers won this, their fourth world championship of the 1980's; and

WHEREAS, During the regular season, the Lakers compiled the best record in the NBA, winning 65 of 82 games, and their winning ways continued in the playoffs, where they won 14 of 17 games in eliminating the Denver Nuggets, the Golden State Warriors, the Seattle Supersonics, and, finally, the Boston Celtics; and

WHEREAS, Special recognition is due to Laker guard Earvin ("Magic") Johnson, who earned Most Valuable Player recognition in both the regular season and the championship series--and achieved the additional distinction of being the first player ever to win championship series MVP honors three times; and

WHEREAS, Laker fans will never forget the hook shot which Magic Johnson made with two seconds remaining in the fourth game of the championship series--a shot which capped a Laker comeback from a 16-point deficit and gave them a critical victory at Boston Garden; and

WHEREAS, The members of the 1986–87 World Champion Los Angeles Lakers are: Captain Kareem Abdul-Jabbar, Adrian Branch, Michael Cooper, A.C. Green, Earvin ("Magic") Johnson, Wes Matthews, Kurt Rambis, Byron Scott, Mike Smrek, Billy Thompson, Mychal Thompson, and James Worthy; and

WHEREAS, Also deserving of congratulations are Laker owner Dr. Jerry Buss, Laker President Bill Sharman, General Manager Jerry West, Head Coach Pat Riley and his assistants, Bill Bertka and Randy Pfund, Trainer Garry Vitti, and the Laker announcers, Chick Hearn and Keith Erickson; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That all members of the World Champion Los Angeles Lakers and their organization be congratulated for their outstanding performances throughout the 1986–87 NBA season; and be it further

Resolved, That, on behalf of the basketball fans of California, the Legislature thanks the Lakers for the excitement and inspiration that they have brought to our state during their most recent championship season; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to each member of the Los Angeles Lakers team, coaching staff, and administrative staff.

RESOLUTION CHAPTER 46

Senate Concurrent Resolution No. 11—Relative to the California Delta Highway.

[Filed with Secretary of State June 22, 1987]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the portion of State Highway Route 4 from Interstate Highway 680 to Interstate Highway 5 is hereby officially designated the California Delta Highway; and be it further

Resolved, That the Department of Transportation is directed to determine the cost of appropriate plaques and markers, consistent with signing requirements for the state highway system, showing the special designation and, upon receiving donations from nonstate sources covering that cost, to erect those plaques and markers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 47

Senate Concurrent Resolution No. 12—Relative to the California Law Revision Commission.

[Filed with Secretary of State June 22, 1987]

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 1986, lists 23 topics, all of which the Legislature has previously authorized or directed the commission to study; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly 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:

(1) Whether the law relating to creditors' remedies (including, but not limited to, attachment, garnishment, execution, repossession of property (including the claim and delivery statute, self-help repossession of property, and the Commercial Code repossession of property provisions), civil arrest, confession of judgment procedures, default judgment procedures, enforcement of judgments, the right of redemption, procedures under private power of sale in a trust deed or mortgage, possessory and nonpossessory liens, and related matters) should be revised;

(2) Whether the California Probate Code should be revised, including, but not limited to, whether California should adopt, in

whole or in part, the Uniform Probate Code;

(3) Whether 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 minor 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;

(24) Whether there should be changes to administrative law; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the California Law Revision Commission.

RESOLUTION CHAPTER 48

Assembly Concurrent Resolution No. 3—Relative to transportation.

[Filed with Secretary of State June 23, 1987]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature requests the Department of Transportation to prepare a report concerning the impacts of the expansion of the Tehachapi Correctional Institute and other potential development upon the current functional classification of State Highway Route 202 as part of the department's highway system planning process. In preparing this report, the department is requested to confer with the Department of Corrections, the Kern County Council of Governments, and the City of Tehachapi; and be it further

Resolved, That the Legislature requests that copies of this report be provided to the Assembly Committee on Transportation and the Senate Committee on Transportation not later than September 1, 1987; 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 49

Assembly Concurrent Resolution No. 10—Relative to the William J. C. Dinsmore Bridge.

[Filed with Secretary of State June 23, 1987.]

WHEREAS, William J. C. (Will) Dinsmore was born in Stewart's Point, Sonoma County, on September 2, 1877, and lived in, and attended school in, Grizzly Bluff, Humboldt County, in the 1880's; and

WHEREAS, He joined the Alaska Gold Rush when he was 21 years

of age in 1898 and returned to Humboldt County in 1900 and purchased with his father and brothers a ranch, which is now known as "Dinsmore," on State Highway Route 36; and

WHEREAS, From 1913 until 1922, in addition to ranch operations, he was employed by the California Division of Highways as a foreman and worked on the section of State Highway Route 36 from Dinsmore to Forest Glen; and

WHEREAS, Mr. Dinsmore continued the operation of his ranch until his retirement in 1945, and resided in Fortuna until his death on June 21, 1951; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Bridge #04-129 located one mile west of Dinsmore on State Highway Route 36 is hereby officially designated the William J. C. Dinsmore Memorial Bridge; 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 family of William J. C. Dinsmore.

RESOLUTION CHAPTER 50

Assembly Concurrent Resolution No. 30—Relative to domestic wine exports.

[Filed with Secretary of State June 23, 1987]

WHEREAS, Wine produced by California vintners represents a significant contribution to the economy of the state and the nation as a whole; and

WHEREAS, California produces and exports 95 percent of all wine produced in the United States, supplying foreign and domestic markets with 391 million gallons in 1985; and

WHEREAS, California exported 6 million gallons of wine to foreign nations in 1985, while foreign nations imported 12 million gallons into California; and

WHEREAS, California exporters still experience unfair treatment at foreign ports through tariffs, surcharges, import licensing requirements, uncertain methods of customs valuations, taxes, and other trade restrictions; and

WHEREAS, California wine has been greatly disadvantaged

competitively in foreign markets by the imposition of these added restrictions; and

WHEREAS, The Governor of the State of California has opened an Asian Trade and Investment Office in Tokyo, Japan, in order to further trade relations with Pacific Rim countries; and

WHEREAS, Taiwan imposes an excessive duty of approximately $30 per case on imported California wine; and

WHEREAS, Japan continues to impose a tariff on California wines, more than double that of the United States, in addition to a liquor tax, which can add up to $6 to a bottle of high-valued wine; and

WHEREAS, While Japan is to be commended for recently reducing their general tariff from 30.4 percent to 21.3 percent, the tariff should be further reduced; and

WHEREAS, Other Pacific Rim nations have imposed similar tariffs and taxes on California wine products; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Governor and the Director of the Asian Trade and Investment Office in Tokyo are respectfully requested to urge Taiwan, Japan, and other Pacific Rim countries to cease negative trade practices and policies which put California's wine products at a competitive disadvantage in both domestic and foreign markets; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, the Director of the Asian Trade and Investment Office in Tokyo, and the members of the California State World Trade Commission.

RESOLUTION CHAPTER 51

Senate Concurrent Resolution No. 9—Relative to the Joint Committee on Computers in Government.

[Filed with Secretary of State June 24, 1987]

WHEREAS, The executive branch of state government provides a great number of necessary services for the people of California through its personnel; and

WHEREAS, The efficient and effective utilization of the state workforce can lead to the greatest potential savings in state funds; and

WHEREAS, The most practical means of promoting the efficiency of state employees and enhancing the services they perform for the public has been recognized to be the utilization of computer technology and related automated office procedures; and

WHEREAS, The constantly changing standards within the computer industry have provided the benefit of an abundance of new jobs for the executive branch of state government and lower

costs for this technology, but with the side effect that entire generations of computer systems are rendered obsolete within just a few years; and

WHEREAS, It is in the best interest of the state to scrutinize the usefulness of computer systems currently utilized by the executive branch of state government and to carefully plan for new systems which will stand the test of time, provide maximum efficiency, and be of the greatest assistance to state personnel in the work they do for the people of California; and

WHEREAS, It is the responsibility of the Legislature to deliberate upon, and adopt, the annual Budget Act; and

WHEREAS, In considering the programs and projects contained within the Budget Act, the Legislature has the duty to provide oversight and input into the use of present and future computer systems in those activities; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on Computers in Government is hereby established and authorized to act during the 1987–88 Regular Session of the Legislature; and be it further

Resolved, That, pursuant to Joint Rule 36.5, the Joint Committee on Computers in Government 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; and be it further

Resolved, That the Joint Committee on Computers in Government and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by 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 Senate Committee on Rules may make money available from the Contingent Fund of the Senate as it deems necessary for the expenses of the committee and its members. Any expenditure of money shall be made in compliance with policies set forth by the Senate Committee on Rules and shall be subject to the approval of the Senate Committee on Rules; and be it further

Resolved, That the committee shall, within 15 days of authorization, and annually thereafter, present its annual budget to the Joint Committee on Rules for its review and comment; and be it further

Resolved, That, on or before November 30, 1988, the Joint Committee on Computers in Government shall report to the Legislature as to the utilization of computers in the executive branch of state government and in local governments in California, in the governments of other states, in the federal government, and, if practicable, in foreign governments, and as to plans in each of those levels of government for future utilization of computer systems; and be it further

Resolved, That the Joint Committee on Computers in Government is authorized to act until November 30, 1988, and as of that date shall cease to exist.

RESOLUTION CHAPTER 52

Assembly Concurrent Resolution No. 5—Relative to transit service in the San Francisco Bay area.

[Filed with Secretary of State June 26, 1987.]

WHEREAS, The coordination of efficient transit services, which is required under ordinary circumstances by passenger travel demands, is made even more compelling today in the face of diminishing federal assistance to support the operating costs of transit systems; and

WHEREAS, From the various organizational approaches to managing, financing, and coordinating transit services found in metropolitan areas throughout the country, lessons may be learned regarding the improvement of transit services in the San Francisco Bay area; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Metropolitan Transportation Commission is hereby requested to engage a private contractor to analyze and review various methods of organizing, financing, and managing transit services, and to make recommendations regarding that organization, financing, and management, including, but not limited to, the following:

(1) Organizational changes that might improve the integration and coordination of the services provided by transit systems in the San Francisco Bay area.

(2) Functional consolidation that might be beneficial, including, but not limited to, administration, marketing, maintenance, scheduling, routes, purchasing, and fares.

(3) Identification of impediments that must be overcome in order to accomplish beneficial organizational, operational, or functional changes.

(4) Recommended legislation that would be needed to eliminate impediments to beneficial organizational or functional changes; and be it further

Resolved, That the commission is requested to direct the contractor to consult with transit providers and their employees' representatives, the affected local agencies, as well as academics, representatives of business and industry, developers, environmental groups, and other interested parties in conducting the transit study; and be it further

Resolved, That the recommended organizational and functional

changes not abrogate, lessen, modify, or adversely affect the collective bargaining rights and responsibilities, including the terms and conditions of any collectively bargained pension plans of employees or the collective bargaining representatives of employees, of the affected public transit districts or systems; and be it further

Resolved, That the commission is requested to report the results of its analysis, review, and recommendations to the Legislature by July 1, 1987; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Metropolitan Transportation Commission.

RESOLUTION CHAPTER 53

Assembly Concurrent Resolution No. 15—Relative to merit awards.

[Filed with Secretary of State June 26, 1987.]

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) has already been made to Steven C. Roberson, California Highway Patrol, for a suggestion which resulted in increased revenue of thirty-eight thousand five hundred sixty-five dollars ($38,565) by recommending the placement of signs at California Highway Patrol inspection facilities requiring commercial buses to stop for the purpose of examining their registration; and

WHEREAS, An award of three thousand dollars ($3,000) has already been made to Alexander Carranza, Department of Corrections, for a suggestion which resulted in annual savings of thirty-one thousand one hundred sixty dollars ($31,160) by recommending that that department refurbish torn and soiled mattresses rather than discard them; and

WHEREAS, An award of three thousand dollars ($3,000) has already been made to Richard J. Shasha, Department of Developmental Services, for a suggestion which resulted in one-time savings of eight hundred sixty-three thousand fifty-two dollars ($863,052) by recommending the establishment of a centralized unit-dose packaging and procurement center to purchase pharmaceutical medications in bulk and repackage them in unit-dose form; and

WHEREAS, An award of three thousand dollars ($3,000) has already been made to Lisa M. Brooks, Employment Development Department, for a suggestion which resulted in one-time savings of

one hundred three thousand eighty-six dollars ($103,086) by recommending that each Unemployment Insurance field office ship its own unemployment claim jackets directly to the State Record Center instead of sending them through the Claims Record Group in the Central Office for transmittal; and

WHEREAS, An award of three thousand dollars ($3,000), divided equally, has already been made to Judy Bernardino and Jan Morales, Employment Development Department, for a suggestion which resulted in annual savings and increased revenue of sixty-one thousand nine hundred ninety-five dollars ($61,995) by recommending two new Tax Delinquency Notices to replace four notices used by the Tax Collection Section, Bankruptcy Group, resulting in increased responses from debtors; and

WHEREAS, An award of three thousand dollars ($3,000) has already been made to Victor Kotowski, Franchise Tax Board, for a suggestion which resulted in annual savings of forty-seven thousand eight hundred eighty-one dollars ($47,881) by recommending the Transcription Section be provided the capability to access and update the Withhold Master Files for entity information (name, address, etc.) when processing manual refunds; and

WHEREAS, An award of three thousand dollars ($3,000) has already been made to James A. Klein, Department of Health Services, for a suggestion which resulted in annual savings of thirty thousand five hundred forty-two dollars ($30,542) by recommending the contract with 11 Medi-Cal providers for weekly warrant information, on magnetic tape, be discontinued and providers notified the same services are available through Computer Sciences Corporation; and

WHEREAS, An award of three thousand dollars ($3,000) has already been made to William R. Groome, Department of Real Estate, for a suggestion which resulted in increased revenue of thirty-seven thousand four hundred ninety dollars ($37,490) by recommending the department seek an amendment to Section 10213.6 of the Business and Professions Code to increase rescheduling fees to fifty dollars ($50) for broker candidates and twenty-five dollars ($25) for salesperson candidates; and

WHEREAS, The suggestions of these employees have resulted in annually recurring savings, one-time savings, and increased revenue amounting to one million two hundred thirteen thousand seven hundred seventy-one dollars ($1,213,771); 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 Legislature hereby declares that the following additional awards, which have been authorized by the Department of Personnel Administration, are hereby authorized to the employees named as follows:

Steven C. Roberson, eight hundred fifty-seven dollars ($857);

Alexander Carranza, one hundred sixteen dollars ($116);
Richard J. Shasha, forty thousand one hundred fifty-two dollars ($40,152);
Lisa M. Brooks, two thousand one hundred fifty-four dollars ($2,154);
Judy Bernardino, one thousand six hundred dollars ($1,600);
Jan Morales, one thousand six hundred dollars ($1,600);
Victor Kotowski, one thousand seven hundred eighty-eight dollars ($1,788);
James A. Klein, fifty-five dollars ($55);
William R. Groome, seven hundred forty-nine dollars ($749); and be it further

Resolved, That copies of this resolution be transmitted by the Chief Clerk of the Assembly, to the Controller, and to the Department of Personnel Administration.

RESOLUTION CHAPTER 54

Assembly Joint Resolution No. 30—Relative to Filipino veterans.

[Filed with Secretary of State June 26, 1987.]

WHEREAS, During World War II, Filipinos fought courageously in the United States military efforts in the South Pacific; and

WHEREAS, Filipinos were an integral part in regaining the independence of the Philippines for the United States during World War II; and

WHEREAS, Filipinos served the United States military with honor and distinction as scouts and members of the resistance; and

WHEREAS, Filipinos served the United States military with American soldiers under the command of General Douglas MacArthur; and

WHEREAS, The Filipinos' courage and valor at Corregidor and during the Bataan Death March are the finest examples of the dedication of free men opposing and resisting tyranny; and

WHEREAS, Filipinos' love of freedom and dedicated defense of the United States during time of war truly shows that their loyalty is a matter of heart and mind, not of race, creed, or color; and

WHEREAS, Congress, in enacting the second War Powers Act of 1942, clearly intended to provide for overseas naturalization of noncitizen military personnel under the Nationality Act of 1940; and

WHEREAS, Filipino veterans who fought in World War II have had to fight for their promised citizenship on a case-by-case basis because of delays imposed by the Immigration and Naturalization Service; and

WHEREAS, Some Filipinos have won court decisions restoring the lost opportunity for citizenship that Congress offered them as a just

reward for their military service in World War II; and

WHEREAS, Many of these Filipino veterans who are most affected are passing away, never to attain the goal of U.S. citizenship; 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 grant immediate United States citizenship to Filipinos who are of sound moral character and can demonstrate service in the United States armed forces during World War II; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 55

Assembly Concurrent Resolution No. 50—Relative to the creation of the Joint Committee on Public Pension Fund Investments.

[Filed with Secretary of State June 29, 1987.]

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 California 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 five Members of the Senate, appointed by the Committee on Rules thereof, and five 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 1987–88 Regular Session of the Legislature, including any recess, until the end of the 1987–88 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 Chairperson 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, and to assist the committee 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, as approved by the Chairperson or Chief Administrative Officer of the Joint Rules Committee.

(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 Chairperson 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, 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 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 Joint Legislative Retirement Committee.

(11) The Assembly Committee on Rules may make such money available from the Assembly Contingent Fund as it deems necessary for expenses of the joint committee and its members. Any expenditure of money shall be made in compliance with the policies of, and shall be subject to the approval of, the Assembly 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 56

Assembly Concurrent Resolution No. 69—Relative to the Joint Committee for the Review of the Master Plan for Higher Education.

[Filed with Secretary of State June 29, 1987.]

WHEREAS, The Joint Committee for the Review of the Master Plan for Higher Education was created pursuant to Resolution Chapter 175 of the Statutes of 1984; and

WHEREAS, The joint committee was authorized and directed to receive and review the reports of the Commission of the Review of the Master Plan for Higher Education; and

WHEREAS, The commission has sought and received an extension of the deadlines by which its various reports were and are to be delivered to the joint committee; and

WHEREAS, The joint committee shall be deliberating on the overall Master Plan for Higher Education following the receipt of the final report of the commission; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the deadline for submission, pursuant to Resolution Chapter 175 of the Statutes of 1984, of the final report of the Joint Committee for the Review of the Master Plan for Higher Education is hereby extended until March 30, 1988; and be it further

Resolved, That the Joint Committee for the Review of the Master Plan for Higher Education is hereby authorized to act in accordance with the provisions of Resolution Chapter 175 of the Statutes of 1984 until November 30, 1988, and as of that date shall cease to exist; and be it further

Resolved, That the Chief Clerk of the Assembly shall transmit a copy of this resolution to the Commission for the Review of the Master Plan for High Education.

RESOLUTION CHAPTER 57

Senate Joint Resolution No. 21—Relative to persons of Japanese ancestry interned during World War II.

[Filed with Secretary of State July 1, 1987]

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 and S. 1009, which would enact the Civil Liberties Act of 1987 and implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians, were introduced in 1987 in the House of Representatives and the Senate of the United States, respectively; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California urges the President and the Congress of the United States to enact those portions of H.R. 442 and S. 1009 of the 100th Congress, the Civil Liberties Act of 1987, 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 of the United States, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 58

Assembly Joint Resolution No. 12—Relative to offshore oil drilling.

[Filed with Secretary of State July 2, 1987]

WHEREAS, United States Secretary of the Interior Donald P. Hodel has announced new revisions to a proposed five-year offshore oil and gas leasing plan for California; and

WHEREAS, Secretary Hodel's proposals were immediately criticized by several members of California's congressional delegation, including both of the state's senators; and

WHEREAS, As recently revised, the five-year plan would open to development about 6,450,000 acres—about 13% of the total California offshore area—which had been excluded from drilling by a congressional moratorium that expired in 1985; and

WHEREAS, The fields opened to development under the plan would provide for the nation's energy supply for no more than, and possibly many fewer than, 39 days; and

WHEREAS, The proposed five-year plan has been released against a backdrop of growing public concern and local actions affecting the process of offshore oil and gas development and regulations; and

WHEREAS, Voters in a number of California coastal communities

have overwhelmingly approved initiatives to limit onshore support facilities for offshore oil and gas development; and

WHEREAS, California Department of Fish and Game statistics for 1982 indicate California fishermen earned two hundred forty-one million dollars ($241,000,000) and the commercial fishing industry and related industries contributed approximately seven hundred twenty-five million dollars ($725,000,000) to this state's economy in 1982; and

WHEREAS, Some twenty-two billion five hundred million dollars ($22,500,000,000) are spent annually by tourists in California coastal communities, and studies conclude that offshore oil and gas development has a negative effect on tourist expenditures; and

WHEREAS, The Department of the Interior proposal continues to reject the need for the inclusion in the five-year plan of protective provisions requiring that offshore oil and gas development activities comply with onshore air quality standards, the ability to demonstrate oil spill preparedness, and limitations on ocean discharges of drilling muds and other material from offshore operation; and

WHEREAS, The offshore oil and gas development plan fails to require the transport of any produced oil by pipeline, the safest method from the standpoint of oil spill prevention and protection of air quality; and

WHEREAS, Migratory animals such as ducks, geese, whales, and sea lions feed and rest in California's coastal wetlands in large enough numbers to make these wetlands irreplaceable habitat areas; and

WHEREAS, California's multi-billion dollar tourist industry has considerable national significance and is in large part dependent on a spectacular, highly scenic, and world renowned shoreline which demands a sensitive and carefully planned offshore energy development program; and

WHEREAS, The offshore oil and gas development plan fails to assure the protection of unique and sensitive coastal environments, as well as of endangered and sensitive species, such as the elephant seal and other marine mammals, and is particularly inadequate with respect to lease tracts adjacent to state-designated areas of special biological significance for national marine sanctuaries; 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 urges the United States Secretary of the Interior to revise the proposed five-year offshore oil and gas leasing plan for California so that this state's coastal environment may be more effectively preserved; and be it further

Resolved, That the Legislature urges the Congress of the United States to enact appropriate legislation in protection of California's coastal environment; 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 Secretary of the Interior, to the Speaker

of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 59

Senate Concurrent Resolution No. 19—Relative to Constitution Day.

[Filed with Secretary of State July 6, 1987]

WHEREAS, September 17, 1987, has been designated as "Constitution Day" in commemoration of the signing of the Constitution of the United States of America 200 years ago, an occasion upon which it is appropriate that the people of California come together in celebration; and

WHEREAS, The basic compact of the United States government, a government which protects the individual liberties of its citizens, the Constitution is the oldest document of its kind still in active use in the world today; and

WHEREAS, Over the years, the Constitution has provided to the American people a more enduring and practical government and a greater degree of prosperity than that given to any other people in recorded history; and '

WHEREAS, The independence granted to the American people by the freedoms provided for in the Constitution is the cornerstone of this country, and recognition of this independence is most appropriately displayed at this, the celebration of the bicentennial of the drafting of our Constitution; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That September 17, 1987, is hereby designated as "Constitution Day" throughout the State of California, a time during which all of the citizens of the state are urged to celebrate with appropriate ceremonies and activities and to express gratitude for the privilege of American citizenship as established by the Constitution of the United States of America.

RESOLUTION CHAPTER 60

Senate Concurrent Resolution No. 27—Relative to manufactured homes.

[Filed with Secretary of State July 6, 1987]

WHEREAS, Owners of manufactured homes are often treated as second-class homeowners when they try to obtain financing for their

homes; and

WHEREAS, Owners of manufactured homes often cannot obtain conventional home loans if they live in a mobilehome park; and

WHEREAS, Owners of manufactured homes who can obtain only consumer, rather than mortgage, loans on their manufactured homes cannot deduct interest on their federal tax returns; and

WHEREAS, Owners of manufactured homes who do obtain mortgage loans must pay them off sooner than owners of conventional homes; and

WHEREAS, Owners of manufactured homes pay two to three percentage points more for mortgage money than owners of conventional homes; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature declares the issue of discrimination in mortgage lending to owners of manufactured homes to be of the utmost concern and requests mortgage lending institutions to provide equal treatment to owners of manufactured homes and conventional homes in the conditions, duration, and types of, and interest rates charged on, mortgage loans; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Superintendent of Banks, the Savings and Loan Commissioner, and to associations of California mortgage lending institutions.

RESOLUTION CHAPTER 61

Senate Concurrent Resolution No. 22—Relative to renovation of the old post office building in Van Nuys for use by the Back Alley Theatre.

[Filed with Secretary of State July 8, 1987.]

WHEREAS, The Back Alley Theatre, a nonprofit organization founded in 1979 to present original plays and works new to Los Angeles area audiences, has grown from a fledgling volunteer organization to a professionally organized theater that now ranks among the 10 largest theaters in the greater Los Angeles region, and

WHEREAS, As the most established professional theater in the San Fernando Valley, the Back Alley serves the needs of the valley's 1.5 million residents by providing creative and provocative dramatic productions in the area in which they live and work; and

WHEREAS, The Back Alley subsidizes a free ticket distribution program for nonprofit community groups serving the disabled or needy and substantially discounts tickets for senior citizens and students; and

WHEREAS, The Back Alley has received support from every level of government, including the National Endowment for the Arts, the

California Arts Council, the Los Angeles County Music and Performing Arts Commission, and the City of Los Angeles Cultural Affairs Commission, and has attracted substantial private contributions, which in 1985 amounted to 22 percent of the Back Alley's budget; and

WHEREAS, The Back Alley has outgrown its present facility, a 1940's converted warehouse with only 93 seats, attendance having grown 400 percent during the past five years; and

WHEREAS, The lease on this warehouse facility will expire in November of 1987 and it will not be possible for the Back Alley Theatre to occupy the facility after that time; and

WHEREAS, During 1985 the Back Alley played to over 20,000 patrons, representing 97 percent of its capacity; and

WHEREAS, San Fernando Valley residents make up more than 75 percent of the Back Alley's subscribers and more than 50 percent of its 16,000 home mailing list; and

WHEREAS, The San Fernando Valley, with a population of over 1.5 million persons, is the size of many cities which support several regional theaters, but does not yet have a single facility over 100 seats devoted to professional theater; and

WHEREAS, The Back Alley Theatre has applied for financial assistance from several sources to convert and renovate the old post office building in the City of Van Nuys for use as a 368-seat theater facility; and

WHEREAS, The old Van Nuys post office building was declared a Regional Historical Landmark by the Los Angeles Cultural Heritage Commission in 1978 and an application is pending for its inclusion in the National Register of Historic Places; and

WHEREAS, Without renovation the condition of the old post office building in Van Nuys will continue to rapidly deteriorate and the structure will eventually be lost; and

WHEREAS, The old post office is an ideal location for a midsize theater because of its interior dimensions, ample nearby parking, and architectural style; and

WHEREAS, Use of the old post office building by the Back Alley Theatre will enable Back Alley to serve over 100,000 community residents annually, as well as provide needed local economic stimulation and the creation of over 100 new jobs; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Office of Historic Preservation is requested to provide all possible assistance to the Back Alley Theatre to obtain financial assistance for its proposal to renovate the old post office building in the City of Van Nuys for use as a theater facility; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the State Historic Preservation Officer.

RESOLUTION CHAPTER 62

Assembly Concurrent Resolution No. 11—Relative to textbooks used in California.

[Filed with Secretary of State July 9, 1987.]

WHEREAS, Many of the men and women who founded the United States had ancestors who came to the New World seeking religious freedom; and

WHEREAS, Many of the ethical principles upon which our Constitution and our laws are founded are drawn from principles embodied in many of the world's religions; and

WHEREAS, Much of California's history and culture is derived from the work of the Franciscan Friars and their establishment of a network of missions which became the base of many of California's major cities; and

WHEREAS, Some communities in California and the nation have been built around religious educational and religious medical institutions; and

WHEREAS, A recent study of 60 social studies textbooks, for grades 1 to 6, inclusive, by Professor Paul Vitz, Professor of Psychology at New York University, under a grant awarded by the United States Department of Education, found only 11 references to religious activities in some 15,000 pages studied; and

WHEREAS, It is essential for an understanding of the history and culture of our state and nation that appropriate references to religion not be arbitrarily excluded from textbooks; and

WHEREAS, It is the intent of the Legislature to ensure that the history of our heritage and the proper relationship between church and state under our constitution be accurately reflected to future generations; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That textbooks used in California should accurately and objectively reflect the history of our state and nation, and that appropriate and balanced references to religion and religious freedom not be arbitrarily excluded from these textbooks where inclusion of such references is essential for an understanding of the history and culture of our society and the relationship between church and state under our constitution.

RESOLUTION CHAPTER 63

Assembly Joint Resolution No. 26—Relative to National Forest System timber receipts.

[Filed with Secretary of State July 9, 1987.]

WHEREAS, A portion of the receipts from timber sales on lands within the National Forest System are provided to the states and counties of origin; and

WHEREAS, The federal law governing the sharing of receipts from the National Forest System needs to be clarified by Congress; 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 appropriate legislation to clarify that receipts from the National Forest System shared with the state and counties are to be based on the gross moneys received; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 64

Assembly Concurrent Resolution No. 22—Relative to American Sign Language.

[Filed with Secretary of State July 14. 1987.]

WHEREAS, The Legislature recognizes the unique social, cultural, and linguistic heritage of the deaf community and its substantial contribution to the enrichment and diversity of our society; and

WHEREAS, Over the last 20 years, a significant and growing body of scientific inquiry of American Sign Language (ASL) has been undertaken with the result that ASL is now generally recognized as a separate and complete language with its own unique grammar and syntax; and

WHEREAS, ASL is the third most used language in the United States, other than English; and

WHEREAS, There is a significant and growing interest by the general public in learning ASL; and

WHEREAS, The study and learning of ASL contributes to a greater understanding of the social and cultural aspects of deafness and to the breakdown of the communication barriers that have existed between hearing people, and deaf people and thus to the advancement of the state's expressed policy to encourage and enable deaf people, as well as other disabled people, to participate fully in the social and economic life of the state; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the study and learning of American Sign

Language as a course of study at the state's secondary and postsecondary education institutions is hereby encouraged; and be it further

Resolved, That the Legislature requests the state's postsecondary education institutions to examine the appropriateness of granting credit for ASL courses for specific university requirements; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to all local school districts, private high schools, and every postsecondary education institution in the state, both public and private, which offers associate or baccalaureate degrees.

RESOLUTION CHAPTER 65

Senate Concurrent Resolution No. 44—Relative to the Taiwan Sister State Legislative Task Force.

[Filed with Secretary of State July 14, 1987.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That notwithstanding the provisions of Resolution Chapter 156 of the Statutes of 1986, the Taiwan Sister State Legislative Task Force shall, effective upon the adoption of this measure, consist of 25 members, including 11 members of the public, to be appointed by the Senate Committee on Rules, and 11 members of the public, to be appointed by the Speaker of the Assembly. All other provisions of Resolution Chapter 156 relating to the membership of the task force shall remain the same.

RESOLUTION CHAPTER 66

Senate Concurrent Resolution No. 29—Relative to the Joint Committee on School Facilities.

[Filed with Secretary of State July 15, 1987]

WHEREAS, The Department of Finance, in a survey entitled "An Assessment of the Need for Funding to Provide Facilities for the Unhoused School Population Anticipated Between 1986 and 1991," estimated an increase of 567,000 pupils in grades kindergarten to 12, inclusive, of the public schools from fiscal years 1985–86 to 1990–91, inclusive, with 486,000 of those pupils needing new or rehabilitated school facilities; and

WHEREAS, In that survey, the Department of Finance estimated that, in order to provide adequate school facilities through the 1990–91 fiscal year, it would be necessary to expend $2.8 billion for

new school construction and $1.9 billion for the rehabilitation of existing schools; and

WHEREAS, The Legislature enacted and the Governor signed a package of school facility bills in 1986 which were designed to establish a state and local partnership in financing school facilities and to increase building standards to provide suitable educational facilities; and

WHEREAS, The continued economic development of the state is dependent on the provision of adequate school facilities; and

WHEREAS, Continuous legislative oversight of the implementation of school facilities legislation and an ongoing review of school facility needs should be maintained; now, therefore, be it

Resolved, by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on School Facilities is hereby established and authorized to do all of the following:

(1) Investigate, study, and analyze the statutory provisions relating to the financing, construction, reconstruction, and operation of school facilities.

(2) Conduct oversight hearings and investigations as necessary to evaluate the effectiveness and efficiency of the school facilities system.

(3) Formulate school facility legislation necessary to meet the need for additional school facilities; and be it further

Resolved, That the Joint Committee on School Facilities shall consist of four Members of the Senate, appointed by the Senate Committee on Rules, and four Members of the Assembly, appointed by the Speaker of the Assembly; 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 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 Joint Committee on School Facilities may contract, subject to approval of the Senate Committee on Rules, with other agencies, public or private, as necessary to obtain services or studies which will assist the committee in carrying out its responsibilities; and be it further

Resolved, That the Senate Committee on Rules may make money available from the Contingent Fund of the Senate as it deems necessary for the expenses of the committee and its members. Any expenditure of money shall be made in compliance with policies set forth by the Senate Committee on Rules and shall be subject to the approval of the Senate Committee on Rules; and be it further

Resolved, That the committee shall, within 15 days of authorization, and annually thereafter, present its annual budget to the Senate Committee on Rules for its review and comment; and be it further

Resolved, That the committee shall submit an annual report to the

Legislature on its activities and recommendations for improvements in the school facilities system; and be it further

Resolved, That the committee is authorized to act during the 1987–88 Regular Session of the Legislature, including any recess thereof, until November 30, 1988, at which time the committee's existence shall terminate.

RESOLUTION CHAPTER 67

Senate Concurrent Resolution No. 40—Relative to workers' compensation judges.

[Filed with Secretary of State July 15, 1987]

WHEREAS, The California Supreme Court has characterized the Workers' Compensation Appeals Board as a judicial body exercising judicial functions whose workers' compensation judges hear and determine causes to final resolution in a manner and form consistent with judges of other courts of record in this state; and

WHEREAS, The California Court of Appeal has stated that workers' compensation judges are officers of a judicial system performing judicial functions and are judges for the purposes of the Code of Judicial Conduct and as such are subject to the same rules and constraints in the performance of the duties of their office, and in their adjudicative responsibilities, as are the judges of the other courts of this state; and

WHEREAS, The workers' compensation judges are required by Section 123.6 of the Labor Code to adhere to the Code of Judicial Conduct; and

WHEREAS, Section 68110 of the Government Code provides that "Every judge of a court of this state shall, in open court during the presentation of causes before him, wear a judicial robe, ..."; and

WHEREAS, The Legislative Counsel has advised that although Section 68110 does not require a workers' compensation judge to wear a judicial robe, no law prohibits it and wearing of judicial robes by the workers' compensation judges would appear to be appropriate; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That workers' compensation judges be authorized, on an optional basis, to wear judicial robes in open court during presentation of causes provided, however, that any robe shall be paid for by the workers' compensation judge from his or her personal funds rather than at state expense; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Chairperson of the Workers' Compensation Appeals Board for dissemination to its workers' compensation judges.

RESOLUTION CHAPTER 68

Senate Concurrent Resolution No. 37—Relative to consumer fraud.

[Filed with Secretary of State July 16, 1987]

WHEREAS, The public deserves to be protected from consumer fraud; and

WHEREAS, Federal law requires that gold and silver jewelry marked as having a certain number of karats or silver content shall contain not less than that number or designation, within applicable tolerances set forth, and federal law also requires that the manufacturer responsible for the gold or silver marking apply its trademark; and

WHEREAS, It is important to commerce in California that consumers feel confident in the value of their jewelry purchases; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature requests law enforcement agencies to make their employees aware of those provisions of federal law, specificially the National Gold and Silver Stamping Act (15 U.S.C. Sec. 291 et seq.), and the importance of it to California industry and tourism; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Attorney General and all appropriate state and local law enforcement agencies designated by the Attorney General.

RESOLUTION CHAPTER 69

Senate Concurrent Resolution No. 47—Relative to infant health.

[Filed with Secretary of State July 16, 1987.]

WHEREAS, Each year in California nearly 40,000 babies die in infancy or begin their lives at risk for significant health problems. Adequate prenatal care could prevent roughly one-third of these tragedies. In addition to the cost of lives lost, the lack of adequate maternity care is costing taxpayers needless millions of dollars for hospitalization and other remedial services for children. California needs to get "back to basics" by ensuring needed health care for pregnant women; and

WHEREAS, Nearly a half million babies were born in California in 1985, representing one out of every eight babies in the United States; and

WHEREAS, Compared to babies whose mothers received adequate health care, those with no prenatal care are five times more likely to die in their first year of life. They are also one and one-half

times more likely to be born with medical problems associated with their low birthweight; and

WHEREAS, Between 1970 and 1983, California fell from seventh best among states to 14th in its ranking of infant mortality; from 10th best to 29th in the percent of pregnant women receiving prenatal care in the crucial first trimester of pregnancy; from 12th best to 17th on percent of babies born with low birthweight; and

WHEREAS, The life consequences for the one in 14 babies born in California to mothers who receive late or no prenatal care are often bleak. Many of these babies begin their lives in hospital intensive care units--sick or disabled--at an average cost of $19,000. These babies account for 7 percent of births, but 20 percent of the newborn deaths. "No prenatal care babies" come from all ethnic groups: 34 percent are White; 43 percent Hispanic; 9 percent Black; 8 percent Asian, American Indian, or unknown; and 6 percent others. Infant death rates have recently increased for California's babies, and low birthweight percentages have increased for all of Asian and Black babies and "the number and percentage of babies to mothers with late or no prenatal care have increased;" and

WHEREAS, For the 30 percent of women who are poor or uninsured, there is no "maternity care system" in California. The services which do exist are uneven and overloaded. In Los Angeles County, patients who use public clinics must wait as long as 19 weeks after requesting an appointment for prenatal care before getting one. Orange County prenatal clinics turned away 2,000 indigent patients in 1985 because of their limited resources, and clinics in San Diego turned away 1,245 pregnant women during a recent three-month period for the same reason; and

WHEREAS, Despite the increasing demands on the maternity care system, California has invested relatively little state money in this preventative service. Only $12 million in California's $37 billion budget is specifically earmarked for maternal and child health services. A recent national survey found that 25 states devoted considerable state resources to improving the health of mothers and babies. California was not one of them; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the California Legislature supports the same all-out effort used to wipe out polio among children toward the goal of getting California's next generation off to the healthiest possible start in life. As with the highly successful immunization campaign, the public and private sectors need to join together to make the prenatal care campaign a success. Specific steps the State of California should take are; (1) make services available in every community, through new initiatives to attract providers and to reduce the cost of malpractice insurance; (2) make the price of maternity care affordable, by extending health coverage to uninsured pregnant women and removing fees that deter early care; and (3) get more pregnant women into early health care, through changes in public health policies and expanded education and

outreach; and be it further

Resolved, That the Legislature adopt measures to improve access to the prenatal services for all women in our state to improve the health of our infants who are at risk. Thirty years ago California leaders dedicated themselves to wiping out polio and diphtheria by building a public/private partnership to protect each child. The Legislature by adopting this resolution will demonstrate the same level of commitment to providing prenatal care since this is the best "vaccine" available to protect our state's babies' health; and be it further

Resolved, That the Legislature supports initiatives in the United States Congress which strengthen and expand prenatal care for uninsured pregnant women, including the Medicaid Infant Mortality Amendments of 1987 (H.R. 1018 and S. 422); and be it further

Resolved, That the California Legislature by implementing these prevention-oriented recommendations can reduce total state expenditures in the first year and provide California with large fiscal and human dividends in later years. It will cost approximately $32 million per year to provide prenatal care to the pregnant women who now go without. Savings from this investment in the first year alone amount to an estimated $54.4 million--for a net savings of $22.4 million. Over time, by avoiding preventable disabilities in children, the savings could increase to approximately $260 million annually.

RESOLUTION CHAPTER 70

Senate Concurrent Resolution No. 14—Relative to the Public Utilities Commission.

[Filed with Secretary of State July 20, 1987]

WHEREAS, The Public Utilities Commission, in its regulation of the rates and charges of public utilities under its jurisdiction, considers and approves matters affecting rates and services amounting to many millions of dollars each year directly affecting nearly every Californian; and

WHEREAS, Although the commission holds public hearings in these matters, real public input is often more a theory than a reality because of limited access to essential documentation in these cases and inconveniently scheduled hearings; and

WHEREAS, It is essential for informed public participation in commission proceedings that documents relating to pending proceedings be readily available to the public in the major metropolitan areas of the state and that hearings be scheduled in locations convenient to the ratepayers and other members of the public directly concerned; and

WHEREAS, It is also essential that the Public Utilities Commission

ensure that adequate commission staff are available within major metropolitan areas comprising the service areas of public utilities to assist citizens in reviewing documents relating to pending proceedings, to answer complaints about utility services and rates, and to serve other community needs associated with the provision of public utility services; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Public Utilities Commission schedule public hearings, upon request, in electrical, gas, and telephone corporation proceedings within the service area of the public utility involved; and be it further

Resolved, That the commission is requested to establish a regional office in San Diego, if adequate funding is provided, to answer consumer complaints about utility services and rates, to make available public documents relating to its pending proceedings involving electrical, gas, and telephone corporations which serve the San Diego region, and to serve other community needs related to public utility operations; and be it further

Resolved, That the commission report to the Legislature on or before January 1, 1989, on its policy for the scheduling of hearings within the service area of the public utilities involved, and on its creation of a regional office in San Diego; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Public Utilities Commission.

RESOLUTION CHAPTER 71

Assembly Concurrent Resolution No. 26—Relative to the California Reading Initiative.

[Filed with Secretary of State July 21, 1987]

WHEREAS, The ability to read is a fundamental right of all individuals, and

WHEREAS, All students should have opportunities to read, study, and enjoy significant literary works, and

WHEREAS, Development of the desire to read should begin in the home, be strengthened in the school, and be reinforced in the community, and

WHEREAS, Learning to read is a means to the end of being a lifelong learner, and

WHEREAS, The California Reading Initiative is an effort designed to promote reading and reduce illiteracy; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature supports the California Reading Initiative; and be it further

Resolved, That the Legislature encourages parents, educators,

librarians, community leaders, and organizations to join together, along with the Legislature, in support of the California Reading Initiative as an avenue to giving our young people the desire to read, one of life's most valuable gifts.

RESOLUTION CHAPTER 72

Assembly Joint Resolution No. 16—Relative to handicapped children.

[Filed with Secretary of State July 21, 1987]

WHEREAS, Congress, in 1986, enacted and the President signed Public Law 99-457, which authorizes an early intervention program under the Education of the Handicapped Act for handicapped infants and toddlers and their families, and for handicapped preschoolers; and

WHEREAS, Congressional testimony and research indicate that early intervention and preschool services help enhance intelligence in children; produce substantial gains in physical development, cognitive development, language and speech development, psychosocial development and self-help skills; prevent the development of secondary handicapping conditions; reduce family stress; reduce societal dependency and institutionalization; reduce the need for special class placement in special education programs once the children reach school age; and save society and our nation's schools substantial costs; and

WHEREAS, Congress has made findings that there are urgent and substantial needs "(1) to enhance the development of handicapped infants and toddlers and to minimize their potential for developmental delay, (2) to reduce the educational costs to our society, including our nation's schools, by minimizing the need for special education and related services after handicapped infants and toddlers reach school age, (3) to minimize the likelihood of institutionalization of handicapped individuals and maximize the potential for their independent living in society, and (4) to enhance the capacity of families to meet the special needs of their infants and toddlers with handicaps," and that an overwhelming case exists for expanding and improving the provision of early intervention and preschool programs for these young individuals with exceptional needs; and

WHEREAS, The federal Department of Education in its Seventh Annual Report to the Congress has found that studies of the effectiveness of preschool education for the handicapped have demonstrated beyond doubt the economic and educational benefits of programs for young handicapped children, and the studies have also shown that the earlier intervention is started, the greater is the

ultimate dollar savings and the higher the rate of educational attainment by these handicapped children; and

WHEREAS, It is the policy of the United States to provide financial assistance to states to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency program of early intervention services for all handicapped infants and toddlers and their families; and provide a preschool grant program with enhanced incentives for states to serve all three to five year old handicapped children by school year 1990–91 or 1991–92, depending on the level of funds appropriated under the preschool program by Congress; and

WHEREAS, The California Legislature is concerned that Congress, since 1979, has not given states the full amount of financial assistance necessary to achieve its goal of ensuring handicapped pupils, under Public Law 94-142, equal protection of the laws; and that in 1986, the federal government's share of the cost of special education was only 9 percent of the average per pupil expenditure, although the law authorizes a 40 percent federal share; and

WHEREAS, California currently has a partial mandate to make early educational opportunities available to all children younger than three years of age who require intensive special education and services and their parents, and a mandate to serve all handicapped children between the ages of three and four years and nine months who require intensive special education and services; and

WHEREAS, California is exploring the feasibility of implementing the infant and toddler, and preschool provisions of Public Law 99-457; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to provide funding for the new federal programs for handicapped infants, toddlers, and preschoolers to the maximum amount authorized under Titles I and II of Public Law 99-457, in the 1988 federal budget, and in each subsequent budget year, so that states participating in these critical programs will not have to eliminate funding from other vital state and local programs to fund underfunded federal financial commitments; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to the Chair of the Senate Budget Committee, and the Chair of the House Committee on the Budget, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 73

Senate Concurrent Resolution No. 25—Relative to education.

[Filed with Secretary of State August 26, 1987.]

WHEREAS, The Legislature has passed and the Governor has signed legislation that requires local school districts to define policies related to academic grade point and student participation in extracurricular or cocurricular activities as presented in Section 35160.5 of the Education Code; and

WHEREAS, That local policy includes the maintenance of satisfactory educational progress which is defined at least a 2.0 grade point average and progress toward meeting graduation requirements; and

WHEREAS, The law further limits that local board policy to programs which are extracurricular or cocurricular and not academic programs which have as their primary goal the improvement of academic or educational achievements of pupils; and

WHEREAS, The University of California and the California State University System include coursework in the arts, which may require performance or exhibition as part of the class; and

WHEREAS, The State Education Code defines graduation requirement as including coursework in Foreign Language or the Visual and Performing Arts; and

WHEREAS, The Legislature is distinguishing between nonacademic enhancement programs and academic coursework in defining the limits of Section 35160.5; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the intent of the Legislature is not to restrict access to performance based arts classes if these classes are required for graduation or used as a means to satisfy collegiate entrance requirements as these courses clearly have academic goals.

RESOLUTION CHAPTER 74

Senate Concurrent Resolution No. 38—Relative to a national center to map human genes.

[Filed with Secretary of State August 26, 1987]

WHEREAS, The University of California at Berkeley and San Francisco, the Lawrence Berkeley Laboratory, and the Lawrence Livermore National Laboratory are international centers for basic research in the biological and medical sciences; and

WHEREAS, The nation's leading bioscience firms have located in close proximity to these institutions; and

WHEREAS, The State of California is an international leader in the application of this bioscience research; and

WHEREAS, The emergence of bioscience industry will bring incalculable benefits to humankind; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the California Legislature hereby supports the location of a national center to map the entire set of human genes at a center operated by the University of California and the United States Department of Energy National Laboratories in the Bay Area.

RESOLUTION CHAPTER 75

Senate Joint Resolution No. 14—Relative to Coast Guard Vessel Traffic Service.

[Filed with Secretary of State August 26, 1987]

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, The nation's first Federal Harbor Advisory Radar system was developed in San Francisco with the full cooperation and the services of the Marine Exchange of the San Francisco Bay Region and became the prototype for vessel traffic service; and

WHEREAS, In recognition of the importance of vessel traffic service and its many contributions to marine navigation and safety, on January 1, 1986, a vessel traffic service became operational in New York; and

WHEREAS, San Francisco Bay is one of only six areas in the country which, because of its unique conditions, has Coast Guard Vessel Traffic Service; and

WHEREAS, The Coast Guard's Vessel Traffic Service, by directing over 350,000 movements in San Francisco Bay in the past five years and 75,000 movements in 1986 provides essential safety services for vessels using the bay and its numerous ports and harbors, including inland Sacramento-San Joaquin Delta ports; and

WHEREAS, The Coast Guard's port security and defense missions are expanding and the San Francisco Vessel Traffic Service also serves a unique role in the training and qualification of Coast Guard personnel in capabilities that will be increasingly critical; 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 Transportation, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 76

Senate Concurrent Resolution No. 51—Relative to Technology Week.

[Filed with Secretary of State August 27, 1987]

WHEREAS, California has long been recognized as a world leader in high-technology product development and manufacturing; and

WHEREAS, California is also renowned for advanced research and education in new and emerging technology areas; and

WHEREAS, The aggressive application of continued technological growth and development is necessary to the economic well-being of our state; and

WHEREAS, There are over 30 federal government laboratories in California which contribute to the Federal Laboratory Consortium and which pursue a vast range of research and development projects within areas of science and engineering, including space research, aeronautics, forestry, nutrition, environmental protection, medicine, geology, energy, and meteorology; and

WHEREAS, Private industry, academia, and all levels of government can derive substantial benefit and assistance from active and appropriate information dissemination and technology transfer efforts sustained by these federal laboratories; and

WHEREAS, The availability of technical resources and information allows broader and better application of technology, which results in a greater return on the taxpayers' investment in

science and technology; and

WHEREAS, NASA maintains a program within the Jet Propulsion Laboratory, the Ames Research Center, and the NASA Industrial Applications Center to develop, disseminate, and transfer technological information and application for the use of private and public entities within the State of California; 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 first week of November 1987, as Technology Week; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Governor and to the author for appropriate distribution.

RESOLUTION CHAPTER 77

Assembly Concurrent Resolution No. 64—Relative to self-esteem.

[Filed with Secretary of State August 28, 1987]

WHEREAS, The epidemics of violence, drug abuse, teen pregnancy, child abuse, chronic welfare dependency, and educational failure threaten to engulf our society, and it begins to look like self-esteem may be our best hope for a preventive vaccine to develop an immunity to these and other self-destructive behaviors; and

WHEREAS, In 1986 the Legislature passed and the Governor signed into law, AB 3659 (Chapter 1065 of the Statutes of 1986) creating the California Task Force to Promote Self-Esteem and Personal and Social Responsibility; and

WHEREAS, California thereby again proves itself to be the leading state — the first to systematically and self-consciously seek to discover the key to unlock the secrets of healthy human development in order to get to the roots of, and develop effective solutions for, our major social problems; and

WHEREAS, This is an historic and hopeful effort by this state to develop for and provide to all Californians the latest knowledge and practices regarding the significance of self-esteem in our lives and in the lives of our children; and

WHEREAS, The California Task Force to Promote Self-Esteem and Personal and Social Responsibility is firstly charged to compile the most credible, contemporary scientific research regarding whether low or healthy self-esteem is causally implicated in the following six major social problem areas:

(a) Crime and violence.

(b) Drug (including alcohol) abuse.

(c) Teen pregnancy.

(d) Child abuse.

(e) Chronic welfare dependency.

(f) Failure of children to learn up to their potential; and

WHEREAS, The task force is secondly charged to compile the most credible, contemporary scientific research regarding how healthy self-esteem is nurtured and developed, harmed, and rehabilitated; and

WHEREAS, The task force is thirdly charged to search out and compile a listing of the model programs in California which indicate encouraging levels of success, with the development and the rehabilitation of healthy self-esteem; and

WHEREAS, The task force shall otherwise seek to identify policies and programs which support the development of healthy self-esteem and personal and social responsibility; and

WHEREAS, The task force shall survey government and other public institutions, including government agencies, schools, and public assistance programs to determine whether the manner in which they treat people serves to dehumanize persons and adversely affect their healthy self-esteem; and

WHEREAS, Extensive state and nationwide media coverage has made the creation and mission of this self-esteem task force widely known so that our entire state and much of our nation are watching; and

WHEREAS, More than 1,200 Californians, as well as numerous individuals and representatives of other states have come forward to state their endorsement of this task force and its mission; and

WHEREAS, The majority of those Californians who have come forward have also expressed interest in being personally involved with and serving as a resource for the task force; and

WHEREAS, Hundreds of committed, competent, and enthusiastic Californians sought appointment to the task force, and only 25 were successful, leaving a substantial reservoir of talent, energy, and good will available and eager to personally participate in this historic and hopeful endeavor; and

WHEREAS, We now have an unprecedented opportunity to create an effective statewide grass roots self-esteem network which could well serve as a model for other states to learn from and emulate; and

WHEREAS, The initial success of the task force's effort depends upon its receiving the most extensive input from throughout California thus, it would be valuable to create local vehicles with which all Californians could affiliate and through which they could make their knowledge and talents better known and available to the state task force; and

WHEREAS, The eventual success of the task force's effort will depend upon the effective carrying of its findings and recommendations into the heads and hearts, understanding and attitudes, and behaviors and practices of every individual Californian; and

WHEREAS, That success will be most assured by creating a series of vehicles to bring the task force's findings and recommendations back into every local community throughout California to inform and encourage implementation by every Californian in his or her individual, family, and community lives; and

WHEREAS, California's 58 counties seem most likely to be the most extensive and effective network through which to create such a vehicle locally for both input and implementation; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature encourages the task force to recognize and seek to mobilize the enormous and widespread experience, enthusiasm, and creativity of Californians regarding self-esteem and this task force effort; and be it further

Resolved, That the task force systematically endeavor to actively involve every Californian feasible in this historic endeavor; and be it further

Resolved, That the task force endeavor to create a sense of participation in and ownership of this task force endeavor amongst all Californians; and be it further

Resolved, That the task force develop effective vehicles for widespread public participation throughout its endeavors, especially for gaining input from local sources and for carrying the findings and recommendations (information and practices) of the task force work back into local communities and individual lives; and be it further

Resolved, That the task force hold statewide and locally based public hearings and meetings and to seek involvement of, and to receive input from, local community groups and programs; and be it further

Resolved, That the Legislature hereby requests and encourages each of California's 58 counties to immediately create its own local self-esteem task force to work as a partner with the statewide self-esteem task force, for the purpose of becoming that local vehicle; and be it further

Resolved, That each county, in so creating its task force, is encouraged to model its membership after the statewide task force to do all of the following:

(a) Include the county superintendent of schools, the county head of health and human services, the county chief parole officer, and the county district attorney.

(b) Ask each member of the board of supervisors to appoint three local laypersons using all of the following 10 categories as listed in Chapter 1065 of the Statutes of 1986 as a guideline for selection:

(1) Law enforcement.
(2) Corrections.
(3) Mental health.
(4) Social science.
(5) Education.
(6) Religion.

(7) Organizational development.
(8) Psychology or counseling.
(9) Media.
(10) Community-based service organizations.

(c) Allow, at least in an informal manner, the participation of any interested local resident, including persons who do not usually operate within our traditional government systems; and be it further

Resolved, That each county appoint members to the county task force no more than 30 days after the adoption of an ordinance or resolution to create the task force; and be it further

Resolved, That the chairperson of the board of supervisors appoint the chairperson of the task force who shall also serve as a liaison to the state task force, and inform the state task force regarding the status of its local self-esteem task force; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the chairperson and each member of the California Task Force to Promote Self-Esteem and Personal and Social Responsibility and to the county clerk of each of California's 58 counties, for presentation to the county's board of supervisors.

RESOLUTION CHAPTER 78

Assembly Joint Resolution No. 10—Relative to the Aviation Trust Fund.

[Filed with Secretary of State August 28, 1987]

WHEREAS, Congress has established the Aviation Trust Fund for purposes of funding enhanced aviation safety and efficiency programs, and improvements in these matters have never been more urgently needed; and

WHEREAS, This fund was established in 1970 as a means to support construction of additional airports, including small "reliever" airports designed to reduce congestion at crowded major airports; and

WHEREAS, In 1982, the purpose of the fund was expanded to include airport improvements, air traffic control facilities, and air safety matters; and

WHEREAS, Urgently needed projects include replacement of outmoded radar systems presently affording only partial coverage of air traffic control areas, higher capacity computer information processing systems, and systems to warn air traffic controllers of impending midair collisions; and

WHEREAS, Because of inadequacies in the present air traffic control system, airlines and their passengers in 1986 experienced delays totalling approximately 2,500 hours per day nationwide, the industry's worst year ever for flight delays, which has been estimated

to cost the airlines, passengers, and shippers more than two billion dollars ($2,000,000,000); and

WHEREAS, Needed improvements are especially critical since airlines are presently serving more passengers than ever before, and the annual United States airline passenger total is reliably expected to continue to increase for the foreseeable future; and

WHEREAS, The Aviation Trust Fund is supported by an 8 percent tax on all airline tickets, a twelve cent ($0.12) per gallon tax on general aviation fuel, an air cargo tax, and an international departure fee, which result in total revenues of nearly three billion dollars ($3,000,000,000) per year; and

WHEREAS, An enormous surplus presently exists in the fund amounting to unspent revenues of approximately eight billion four hundred million dollars ($8,400,000,000), of which approximately four billion three hundred million dollars ($4,300,000,000) is not even committed to any long-term project; and

WHEREAS, It has been alleged that these funds have been hoarded for federal deficit-reduction purposes rather than utilized for the purposes for which the trust was created, and the Federal Aviation Administration has proposed that some of these funds be diverted to covering FAA operating expenses, including salaries, rather than the safety and improvement projects for which the money was originally collected; and

WHEREAS, This failure to properly utilize these funds for their original safety and improvement purposes jeopardizes the safety and well-being of the entire American public as well as air travelers and personnel; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the California Legislature urgently memorializes the President and Congress to take all necessary measures to utilize the Aviation Trust Fund for purposes of greatly needed aviation safety and improvement projects, pursuant to the original purposes of that fund; 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 Federal Aviation Administration.

RESOLUTION CHAPTER 79

Assembly Joint Resolution No. 17—Relative to strategic supplies of tungsten.

[Filed with Secretary of State August 28, 1987]

WHEREAS, Tungsten is a strategic material which is used not only to make drilling and cutting parts for the machining, oil well drilling, and mining industries and filaments for light bulbs, but also has many important applications in armaments and aircraft; and

WHEREAS, During World War II and the Korean Conflict, the United States, with world supplies cut off, became self-sufficient in the production of tungsten and created a strategic stockpiling program for this essential commodity; and

WHEREAS, The Bishop, California tungsten deposit is believed to be the world's largest, and the mine and mill located there contributed greatly to this country's production of that vital material; and

WHEREAS, At its peak of production in 1979, the Bishop mine and mill employed about 10 percent of that city's population, while today the mine has closed and the mill barely remains able to operate, and employs only 2 percent of Bishop's population; and

WHEREAS, If present import trends continue, all tungsten mines in this country will soon close, followed closely by the remaining tungsten mills, making the United States totally dependent upon foreign imports for tungsten; and

WHEREAS, Although federal stockpiles of tungsten are ample for a national emergency, that material is presently stored in a raw material state, and must be refined in order to be of any use to either industry or defense; and

WHEREAS, The closure of the nation's tungsten mills would render federal tungsten stockpiles worthless and unusable; and

WHEREAS, The United States tungsten industry has proposed that these stockpiles be refined and upgraded as a means to keeping these vital milling facilities in operation and the country's tungsten supplies in a usable state; and

WHEREAS, Excess tungsten concentrates may be used to finance this upgrading and refining process in order to minimize expenditures, and a similar program is presently in place for other strategic materials such as manganese and chromium; and

WHEREAS, Institution of a tungsten upgrading and refining program would be the only feasible way to keep the Bishop mill and its highly trained employees working, and the closure of this modern and environmentally sound facility would be a great loss not only for the community of Bishop but for the United States; 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 to institute a tungsten upgrading and refining program in order to render the nation's strategic stockpiles of tungsten usable and to rescue the vital tungsten milling industry from oblivion; 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 General Services Administration.

RESOLUTION CHAPTER 80

Assembly Joint Resolution No. 36—Relative to the Elk Hills Naval Petroleum Reserve.

[Filed with Secretary of State August 28, 1987]

WHEREAS, The Elk Hills Naval Petroleum Reserve was established in 1912 to provide a ready source of crude oil in time of national emergency; and

WHEREAS, The reserve was opened in 1976 to commercial production to offset the loss of imported crude due to the Arab oil embargo; and

WHEREAS, Congress and the federal government mandated that a portion of the production from the reserve be made available to small refiners; and

WHEREAS, Elk Hills crude provides the only available supply of light, relatively low-sulfur crude needed by small California refiners to meet the state's strict environmental limitations and special product needs; and

WHEREAS, The small refiners use the Elk Hills crude oil in blend to transport to processing facilities the heavier, low-gravity crudes produced by independent oil producers in the San Joaquin Valley; and

WHEREAS, This independent refiner market is of paramount importance to the continued viability of independent oil producers; and

WHEREAS, Elk Hills crude represents the single largest block of crude oil production not controlled by a major integrated refiner; and

WHEREAS, The state's independent refiners provide an important product price competition for major integrated companies; and

WHEREAS, Several proposals have been made to sell the portion of the Elk Hills Naval Petroleum Reserve owned by the federal government; and

WHEREAS, Section 7430 of the federal Naval Petroleum Reserves Act prohibits any person from obtaining control over more than 20 percent of annual oil sales from Elk Hills; and

WHEREAS, The Department of Energy has recently interpreted Section 7430 to apply only cumulatively to all sales that occur each

year and not to individual oil sales which occur approximately every three months; and

WHEREAS, This interpretation will result in the disruption of steady oil supplies which are needed by small refiners; 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 to disapprove any sale or lease of the federal government's portion of the Elk Hills Naval Petroleum Reserve; and be it further

Resolved, That to ensure the continued existence of smaller refinery facilities, the Congress is requested to direct the federal government to assure that not more than 20 percent of each oil sale from the reserve be granted to one corporate entity, and its subsidiaries and affiliates; 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 81

Senate Joint Resolution No. 17—Relative to school lunch programs.

[Filed with Secretary of State August 31, 1987]

WHEREAS, The programs established pursuant to the National School Lunch Act (Sections 1751 to 1769a, inclusive, of Title 42 of the United States Code) are intended to serve the nutritional needs of all children; and

WHEREAS, Good nutrition is essential to the growth, development, and general good health of children and has been demonstrated to promote the ability of children to learn; and

WHEREAS, Studies indicate that students from all economic levels who participate in the programs established pursuant to the National School Lunch Act are better nourished than children who do not participate in the school lunch program; and

WHEREAS, The school lunch program comprises the major nutritional component of the daily diet of millions of American schoolchildren; and

WHEREAS, The programs established pursuant to the National School Lunch Act further benefit the economy by helping to fully utilize the nation's abundance of agricultural products; and

WHEREAS, The President of the United States has proposed to reduce financial support for child nutrition programs across the nation by $826 million in the 1987–1988 federal budget; and

WHEREAS, The cuts in federal cash assistance to school lunch programs in California alone will total at least $57 million; and

WHEREAS, Since passage of the 1981 Omnibus Budget Reconciliation Act (Public Law 97-35), federal funding for child nutrition has declined by more than $6 billion; and

WHEREAS, The program under current law provides a basic infrastructure which helps pay the fixed costs of school food service programs in 1,178 California school districts serving 1,950,000 children; and

WHEREAS, State law mandates school lunches for needy children, and without the existing level of federal funding, many school districts would be unable to meet this mandate, jeopardizing the nutritional well-being of all children, including the poor, in the community; and

WHEREAS, The funding reduction in California since 1981 has resulted in a drop of more than 10 million free lunches, 8 million reduced-price lunches, and 16 million paid lunches annually; and

WHEREAS, The Child Nutrition Amendments of 1986 (Public Law 99-661) reauthorized all child nutrition programs until September 30, 1989; and

WHEREAS, The 98th Congress and the 99th Congress rejected all child nutrition budget cuts after extensive hearings and the Gramm-Rudman-Hollings Act (also known as the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177)) exempted child nutrition programs from any budget cuts; 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 the 1987–88 fiscal year; 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 82

Senate Concurrent Resolution No. 33—Relative to missing disabled persons.

[Filed with Secretary of State September 2, 1987]

WHEREAS, Section 11114 of the Penal Code requires all local police and sheriffs' departments to accept any report of a missing person without delay, and it authorizes the police or sheriff's department having jurisdiction of the place in which the person

reported missing was last seen to initiate the investigation of the missing person; and

WHEREAS, The necessity to locate missing persons who suffer from disabilities as soon as possible requires local law enforcement agencies to initiate programs which expedite the investigation of their disappearance; and

WHEREAS, The circumstances involved in each missing person report are unique and must be individually evaluated; and

WHEREAS, Local law enforcement agencies in the past have given valuable service to society by providing helpful information to the public regarding self-protection and survival in potentially dangerous circumstances; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby requests each police and sheriff's department to review its regulations and adopt, if necessary, additional measures to require immediate attention to, and appropriate action on, missing person reports regarding disabled persons; and be it, further

Resolved, That the Legislature hereby requests, to the extent that time and funds are available, each police and sheriff's department to continue providing the public with appropriate self-protection information and specific information for use by disabled persons in order that they can facilitate their own discovery and rescue in the event of a mishap; and be it

Resolved, That the Chief Clerk of the Senate transmit a copy of this resolution to each police and sheriff's department.

RESOLUTION CHAPTER 83

Senate Concurrent Resolution No. 34—Relative to the Glenn Anderson Freeway.

[Filed with Secretary of State September 2, 1987]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That State Highway Route 105 be officially designated the "Glenn Anderson 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 the signing requirements for the state highway system, showing the official designation and, upon receiving donations from private sources covering that cost, to erect those plaques and markers; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 84

Senate Joint Resolution No. 8—Relative to federal income tax reform.

[Filed with Secretary of State September 2, 1987]

WHEREAS, The ability of investor-owned energy and water utilities to provide extensions of their dedicated utility services to new residential, agricultural, and business customers within California on an efficient basis is of utmost importance to the continuing growth of the state's dynamic economy; and

WHEREAS, The policies of the California Public Utilities Commission encourage new customers to contribute to the plant or needed funds to the serving utility for major service extensions, and thereby protect existing ratepayers from assuming the costs of those extensions; and

WHEREAS, A key element of providing least-cost utility service extensions was a long-standing provision of federal tax law which allowed payments made by new customers to offset the cost of extending the utilities distribution facilities to be treated as a contribution of capital to the utility, and thus not treated as income to the utility upon which income taxes are owed; and

WHEREAS, The federal Tax Reform Act of 1986 (Public Law 99-514) amended Section 118 and repealed Section 362(c) of the Internal Revenue Code, which allowed for those contributions to be treated as capital, and produced the result that contributions made after December 31, 1986, will be treated as income to the receiving utility, and subject to applicable federal income tax rates; and

WHEREAS, The economic impact of this change will be immediate and severe, inasmuch as the overall cost of those contributions will increase by as much as 66 percent during 1987, due to their taxable status, and these increased costs must be borne by either the new customer or the ratepayers of the serving utility; and

WHEREAS, This impact will be particularly harmful for regulated water utilities, which are unable to obtain cash for both building needed extensions and paying the newly-imposed tax unless the California Public Utility Commission grants significant rate increases for existing customers; and

WHEREAS, This action by the federal government does not appear to satisfy either of the goals of fairness or economic growth upon which the Tax Reform Act of 1986 is grounded; 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 immediately enact legislation to restore the capital status of contributions to investor-owned energy and water utilities as it existed prior to the federal Tax Reform Act of 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, to each Senator and Representative from California in the Congress of the United States, and to the California Public Utilities Commission.

RESOLUTION CHAPTER 85

Senate Joint Resolution No. 12—Relative to airport funding.

[Filed with Secretary of State September 2, 1987]

WHEREAS, The federal Airport and Airway Trust Fund, created by the former federal Airport and Airway Development Act of 1970 (Public Law 91-258), consists primarily of user fees from the carriage of passengers by air transport, the transport of property and cargo, and excise taxes on aviation fuel and tires, and is dedicated to the support and development of the nation's overall air transportation system; and

WHEREAS, The projected annual revenues to the Airport and Airway Trust Fund for the 1987 fiscal year are three billion five hundred million dollars ($3,500,000,000), bringing the projected surplus in the trust fund up to five billion six hundred million dollars ($5,600,000,000) by the end of the 1987 fiscal year on September 30, 1987; and

WHEREAS, The Airport and Airway Trust Fund was established as the funding mechanism for the support of, and future research and development for, the nation's air transport system, including the air traffic controller system; research, engineering, and development; and grants of aid for state and local governments to maintain and improve their airport facilities; and

WHEREAS, In 1981, the authorization of the Airport Improvement Program contained in the former Airport and Airway Development Act of 1970 was delayed for 18 months during which time only limited federal funds were available for airport development even though aviation user fees and taxes continued to flow into the United States Treasury; and

WHEREAS, This reduction in funding has contributed to the increasing shortfall of airport development needs as determined both by the Federal Aviation Administration's National Plan of Integrated Airport Systems and by state and regional system plans; and

WHEREAS, The Airport and Airway Improvement Act of 1982 (Public Law 97-248) will expire on September 30, 1987, and without reauthorization legislation, serious delays in the delivery of moneys from the fund to California will result, thereby inhibiting the ability of local airport operators to plan needed projects; and

WHEREAS, Another delay in the reauthorization of the Airport Improvement Program such as the delay in 1981 could translate into a 100 million dollar setback annually in California for planned and approved projects, most of which are either safety-related or are intended to improve the severe airport capacity or compatibility planning problems faced by California's airports; and

WHEREAS, The California Commission on Aviation and Airports unanimously approved a motion expressing concern and recommending that the Legislature of the State of California urge the Congress of the United States to take immediate action to avoid any delay in the reauthorization of the Airport and Airway Improvement Act of 1982; 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 support and expeditiously enact legislation reauthorizing both the Airport and Airway Improvement Act of 1982 and the Airport and Airway Trust Fund so as to preclude any interruption in the expenditure of user-paid aviation trust funds for the airport projects for which the funds were collected and intended; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Secretary of Transportation, to the Administrator of the Federal Aviation Administration, and to the Governor of each state in the United States.

RESOLUTION CHAPTER 86

Assembly Concurrent Resolution No. 4—Relative to swimming pool drownings and accidents.

[Filed with Secretary of State September 3, 1987]

WHEREAS, Drowning is a major cause of accidental death in California for children between the ages of one and five years; and

WHEREAS, California has unacceptable incidences of infant and toddler mortality rates as a result of accidental drowning; and

WHEREAS, Near-drowning accidents which result in severe mental retardation and disability are the leading accidental cause of admission of children under the age of five years to California State Hospitals; and

WHEREAS, A child can drown in as little as two to three inches of water, and in less time than it takes to respond to a phone call; and

WHEREAS, All parents and child care providers need to be educated regarding water safety and the importance of all

appropriate water safety devices to keep children from pools and other bodies of water, as well as the importance of being trained in cardiopulmonary resuscitation; and

WHEREAS, Private health agencies and various state agencies have already collected considerable data on drownings and near-drownings by toddlers and small children; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Department of Health Services shall make available to the Legislature, upon request, any reports and information that the department has in its possession, compiled by private health agencies and state agencies relative to drownings and near drownings of toddlers and small children in pools and other bodies of water; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Director of Health Services.

RESOLUTION CHAPTER 87

Assembly Concurrent Resolution No. 36—Relative to Martin Luther King, Jr.

[Filed with Secretary of State September 3, 1987]

WHEREAS, The life and contributions of Martin Luther King, Jr. are memorialized by a federal holiday in January; and

WHEREAS, There is a commitment to remember and acknowledge his teachings and acts; and

WHEREAS, There is the need to study his teachings and acts and to learn and embrace the lifelong goals he so fervidly sought; and

WHEREAS, His teachings and contributions should be particularly highlighted in our schools; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Superintendent of Public Instruction, school districts, and county boards of education be encouraged to offer instruction to pupils on Martin Luther King, Jr., the Civil Rights Movement, and Black American History, and their impact on the American society as a whole; and be it further

Resolved, That the Superintendent of Public Instruction, school districts, and county boards of education, be encouraged to instill in staff development programs for school personnel the teachings of Martin Luther King, Jr.; whereby on the days surrounding his holiday they will better be able to remind and articulate to pupils and students the positive aspects of his teachings, and those of the Civil Rights Movement, and their impact on the American society as a whole; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Superintendent of Public Instruction and to each school district and each county board of education in this state.

RESOLUTION CHAPTER 88

Assembly Concurrent Resolution No. 52—Relative to a Teenage Pregnancy Conference.

[Filed with Secretary of State September 3, 1987]

WHEREAS, Teenage pregnancy is now recognized as a national problem, with pregnancy rates among American teenagers being twice as high as those found among teenagers in England, Wales, France, or Canada; and

WHEREAS, In the United States more than one million teenage girls become pregnant each year, and four out of five are unmarried; and

WHEREAS, In California teenage pregnancy has resulted in 50,000 births to teenage parents, 70,000 teenage abortions, and 17,000 teenage miscarriages in 1984 alone; and

WHEREAS, In addition, California has the second highest teenage pregnancy rate (14 percent) and the highest teenage abortion rate (6.9 percent) in the United States; and

WHEREAS, Eighty percent of teenage mothers and 45 percent of teenage fathers drop out of high school, and 60 percent of teenage mothers receive public assistance; and

WHEREAS, Among teenage pregnancies there is a substantial risk for low birth weight babies, with physical abnormalities and disabilities, and substantially higher infant mortality; and

WHEREAS, The economic loss to society having a substantially unproductive, uneducated portion of the population is immense; and

WHEREAS, Although the success of addressing teenage pregnancy issues requires policymakers, service providers, client/users of services, and interested citizens to work together, there has been no centralized attempt in California to deal with the problem of teenage pregnancy; and

WHEREAS, Other states, and Stanislaus and Los Angeles Counties have held conferences to develop a comprehensive community plan for addressing the issue of teenage pregnancy based upon the model developed by Women and Foundations/Corporate Philanthropy through a Mott Foundation Grant; and

WHEREAS, All of the following organizations have agreed to coordinate such a statewide conference, based upon the Women and Foundations/Corporate Philanthropy model: Adolescent Pregnancy Childwatch of Los Angeles County, American Association of University Women, California Alliance Concerned with School-Age Parenting, California Asian/Pacific Women's Network, California Council of Churches, California Home Economics Association,

California Medical Association, California Mental Health Association, California Reproductive Health Association, California Rural Indian Health Board, State Department of Education, State Department of Health Services, California State Parent-Teachers Association, Crittendon Center for Young Women and Infants, Delta Sigma Theta Sorority, Enterprises Adolescent Development, Institute for Advanced Study of the Black Family, Junior Leagues of California, Los Angeles Comision Feminil Mexicana Nacional, Los Angeles County Task Force on Teenage Pregnancy and Parenting, Lutheran Office of Governmental Ministry, March of Dimes, National Council of Negro Women, Planned Parenthood Affiliates of California, Senate Office of Research, Stanislaus County Public Health Department, Community Advisory Network on Pregnant and Parenting Teens, and UCSF Institute for Health Policy; and

WHEREAS, This conference is to be held in Sacramento on January 28 and 29, 1988; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature actively supports the holding of a statewide planning conference to facilitate California's identification of those policies, programs, and services that are most needed for both primary and secondary prevention of teenage pregnancy, and to improve teenagers' access to timely perinatal care, appropriate parenting education, and support for the completion of high school; and be it further

Resolved, That the conference should identify the needs of teenagers, and the resources available to them, and develop a comprehensive state plan to address teenage pregnancy and parenting in the areas of pregnancy prevention, health care for teenage parents and their children, and education and economic independence of the young parents.

RESOLUTION CHAPTER 89

Assembly Concurrent Resolution No. 56—Relative to skilled nursing facilities.

[Filed with Secretary of State September 3, 1987]

WHEREAS, The Legislature recognizes the need for, and importance of, and community involvement resulting from, the establishment of freestanding, nonprofit, community-based skilled nursing facilities; and

WHEREAS, The Legislature recognizes the need to encourage the establishment of freestanding, nonprofit, community-based skilled nursing facilities; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature requests the Assembly

Office of Research to investigate and report to the Legislature, by June 1, 1988, with specific recommendations on funding alternative and state support available to freestanding, nonprofit, community-based skilled nursing facilities; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Assembly Office of Research.

RESOLUTION CHAPTER 90

Assembly Concurrent Resolution No. 60—Relative to citrus.

[Filed with Secretary of State September 3, 1987]

WHEREAS, Citrus production in California exceeds $700,000,000 annually in gross sales; and

WHEREAS, The continuous threat of transmissible citrus diseases is becoming more of a problem in the production and marketing of this state's citrus products; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Director of Food and Agriculture is hereby requested to appoint a committee pursuant to Section 465 of the Food and Agricultural Code consisting of representatives of the state citrus industry to evaluate the concept of requiring the use of clean state registered citrus stock in the propagating, producing, or selling of citrus stock in this state; and be it further

Resolved, That the evaluation shall include a comprehensive review of existing methods to combat transmissible citrus diseases, including the present quarantine against citrus tristeza virus, other aspects of the present regulatory activities, and the feasibility of implementing the statewide use of clean state registered citrus stock; and be it further

Resolved, That the director report the committee's findings to the Legislature on or before November 15, 1987; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Food and Agriculture.

RESOLUTION CHAPTER 91

Assembly Concurrent Resolution No. 68—Relative to animal rights.

[Filed with Secretary of State September 3, 1987]

WHEREAS, On April 17, 1987, an unfinished veterinary diagnostic medicine facility at the University of California, Davis, was gutted by fire; and

WHEREAS, The fire caused damage estimated at three million five hundred thousand dollars ($3,500,000); and

WHEREAS, Substantial evidence indicates that the fire was intentionally set by a terrorist group purporting to be an animal rights group; and

WHEREAS, The fire at the veterinary diagnostic medicine facility did not just cause damage to property but presented a severe hazard to the safety and lives of people, including firefighters; and

WHEREAS, A fire does not just jeoparadize the lives of people but also endangers the lives and well-being of members of other species; and

WHEREAS, Because fire presents such an extreme threat of physical injury and death, arson has long been recognized as among the most heinous of crimes; and

WHEREAS, The vast majority of persons concerned with the humane treatment of animals has condemned those responsible for the fire at the veterinary diagnostic medicine facility; and

WHEREAS, Nevertheless, a small minority of purported animal rights activists has condoned the arson at the facility, thereby encouraging cruel and vicious terrorist activities that endanger the lives of people and of members of other species; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members condemn the terrorist act of arson at the veterinary diagnostic medicine facility at the University of California, Davis; and be it further

Resolved, That the members condemn those who would condone that act of arson; and be it further

Resolved, That notwithstanding the terrorist act of arson, the State of California and its institutions must remain committed to the humane treatment of animals, and in furtherance of that commitment must consider the views of responsible persons and organizations that are also committed to animal rights; and be it further

Resolved, That the members declare that those who would put human and other animal life in peril by committing arson or by condoning arson cannot be considered truly representitive of the interests of animals; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the Regents of the University of California and the Chancellor of the University of California, Davis.

RESOLUTION CHAPTER 92

Assembly Joint Resolution No. 15—Relative to the use of tributyltin in marine bottom paints.

[Filed with Secretary of State September 3, 1987.]

WHEREAS, Marine bottom paints containing tributyltin (TBT) are widely used by commercial and recreational fleets as an effective antifoulant; and

WHEREAS, The United States Navy is currently considering a conversion to the use of TBT-additive bottom paints for its fleet; and

WHEREAS, High concentrations of TBT have been found in marinas along the west coast, ranging from 100 to 1,000 parts per trillion in the marina water; and

WHEREAS, TBT is known to be toxic in concentrations of over 5 parts per trillion; and

WHEREAS, TBT has been found to cause deformities in oysters and other shellfish and lethal to juvenile chinook salmon; and

WHEREAS, TBT-based bottom paints have been banned or restricted in France and Great Britain at the insistence of the fishing industry to protect marine fish and shellfish; and

WHEREAS, Existing and increased uses of TBT-based bottom paints in the United States pose a potential threat to fish and shellfish resources; and

WHEREAS, Other forms of antifoulant bottom paints do exist and are available to military, commercial, and recreational fleets; 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 an immediate ban on the use of TBT-based bottom paints by domestic or foreign vessels until such time as methods of use of TBT-based bottom paints or derivatives of organotin paints are developed that pose no threat to the marine environment; 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 Secretary of Transportation, to the Secretary of the Navy, to the Administrator of the Environmental Protection Agency, to the Speaker of the House of Representatives, and to each Senator and Representative from Alaska, California, Hawaii, Idaho, Oregon, and Washington in the Congress of the United States.

RESOLUTION CHAPTER 93

Assembly Joint Resolution No. 19—Relative to fishing.

[Filed with Secretary of State September 3, 1987]

WHEREAS, The federal government through the National Marine Fisheries Service is actively encouraging joint venture agreements with foreign governments; and

WHEREAS, Fish, although caught by domestic or foreign fishermen, are landed on foreign flag "mother ships" for processing rather than being landed on our coast; and

WHEREAS, Fish otherwise landed on our shores are subject to taxation for the support of a fisheries-related program in research, law enforcement, and management; and

WHEREAS, Federal funding for the support of fisheries-related programs for research, law enforcement, and management is on the decline; and

WHEREAS, The federal government could impose a fee or tax on joint ventures which could be dedicated to fisheries-related activities; and

WHEREAS, The lack of such a federal equalization levy forces domestically landed fisheries to pay ever-increasing levies to support fishing programs due to federal funding declines and foreign competition; and

WHEREAS, Since 1980, over 400,000 metric tons of whiting, which were caught off the California, Oregon, and Washington coasts, were landed on joint venture foreign flag vessels, and payment of landing taxes were avoided which would have been paid if the fish had been landed domestically; and

WHEREAS, At the California rate of two dollars and sixty cents ($2.60) per ton, in excess of one million dollars ($1,000,000) would have been raised to support fisheries programs for research, management, and restoration if those joint venture landings had been equally taxed; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the California Legislature respectfully memorializes the Congress to enact legislation to immediately impose an equalization levy on all joint venture landings to be paid by the foreign flag mother ships and dedicated for state fisheries support, marketing, enforcement, and management; 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, each United States Senator and Representative from Alaska, California, Hawaii, Idaho, Oregon, and Washington, the Secretary of Commerce, the National Marine Fisheries Service, and the Legislature of each Pacific Coast State, with a request for immediate action to help further and protect our domestic fisheries.

RESOLUTION CHAPTER 94

Assembly Joint Resolution No. 20—Relative to federal income tax reform.

[Filed with Secretary of State September 3, 1987]

WHEREAS, The ability of investor-owned energy and water utilities to provide extensions of their dedicated utility services to new residential, agricultural, and business customers within California on an efficient basis is of utmost importance to the continuing growth of the state's dynamic economy; and

WHEREAS, The policies of the California Public Utilities Commission encourage new customers to contribute the plant or needed funds to the serving utility for major service extensions, and thereby protect existing ratepayers from assuming the costs of those extensions; and

WHEREAS, A key element of providing least-cost utility service extensions was a longstanding provision of federal tax law which allowed payments made by new customers to offset the cost of extending the utility's distribution facilities to be treated as a contribution of capital to the utility, and thus not treated as income to the utility upon which income taxes are owed; and

WHEREAS, The federal Tax Reform Act of 1986 (Public Law 99-514) amended Section 118 and repealed Section 362(c) of the Internal Revenue Code, which allowed for those contributions to be treated as capital, and produced the result that contributions made after December 31, 1986, will be treated as income to the receiving utility, and subject to applicable federal income tax rates; and

WHEREAS, The economic impact of this change will be immediate and severe, inasmuch as the overall cost of those contributions will increase by as much as 66 percent during 1987, due to their taxable status, and these increased costs must be borne by either the new customer or the ratepayers of the serving utility; and

WHEREAS, This impact will be particularly harmful for regulated water utilities, which are unable to obtain cash for both building needed extensions and paying the newly-imposed tax unless the California Public Utility Commission grants significant rate increases for existing customers; and

WHEREAS, This action by the federal government does not appear to satisfy either of the goals of fairness or economic growth upon which the Tax Reform Act of 1986 is grounded; now, therefore, be it

Resolved that the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congess of the United States to immediately enact legislation to restore the capital status of contributions to investor-owned energy and water utilities as it existed prior to the federal Tax Reform Act of 1986; 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 California Public Utilities Commission.

RESOLUTION CHAPTER 95

Assembly Joint Resolution No. 24—Relative to the California Polytechnic State University Foundation.

[Filed with Secretary of State September 3, 1987.]

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California approves the corporate existence of the nonprofit California corporation known as the California Polytechnic State University Foundation, an auxiliary organization of California Polytechnic State University, San Luis Obispo; and be it further

Resolved, That the form of the obligations to be issued by the California Polytechnic State University Foundation, for the siting, design, and construction, of its administrative office facility is approved, provided that this resolution does not constitute or give rise to any obligation of the State of California; the Board of Trustees of the California State University; California Polytechnic State University, San Luis Obispo; or any officers or employees of any of these entities; and no lending or pledging of the credit of any of these entities is intended or accomplished by this resolution; and be it further

Resolved, That the State of California will accept the California Polytechnic State University Foundation administrative office facility as a gift when it is in place; and be it further

Resolved, That the Chancellor of the California State University is authorized to execute any necessary documents to implement this resolution.

RESOLUTION CHAPTER 96

Assembly Joint Resolution No. 35—Relative to Veterans Administration funding.

[Filed with Secretary of State September 3, 1987.]

WHEREAS, There resides in the State of California, over 3.3 million veterans who, along with their dependents, amount to approximately 20 percent of the total population of this great state,

making California the number one ranked state in the United States having the largest veteran community; and

WHEREAS, The young men and women presently in the armed forces that President Reagan referred to in his State of the Union Message will be veterans at sometime in the future, and by 1989, one-half of all American men over age 65 will be veterans; and

WHEREAS, The Reagan Administration plans to reduce the number of veteran patients treated at Veterans' Administration Hospitals by reducing the Veterans' Administration medical staff by 3,810 workers in 1988, thereby forcing 9,700 hospital patients and 113,000 outpatients to find alternative care; 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 to support and the Congress of the United States to enact legislation recognizing the medical needs of our large veteran population, and to amend the budget accordingly to assure that the veterans of this country will not be slighted by reduction in funding for the Veterans'. Administration; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Senate Armed Services and Veterans Committee, to the House Armed Services and Veterans Committees, and to the chairperson of each committee of the Senate and House of Representatives for consideration of legislation.

RESOLUTION CHAPTER 97

Senate Concurrent Resolution No. 6—Relative to the Republic of Korea.

[Filed with Secretary of State September 4, 1987]

WHEREAS, The friendship and commerce program in the form of the sister city concept was inaugurated by the President of the United States in 1956 to establish greater friendship and understanding between the people of the United States and other nations through the medium of direct personal contact; and

WHEREAS, All succeeding United States Presidents have endorsed this program conducted for the broad purpose of exchanging ideas between the citizens of this state, the United States, and the people of other nations; and

WHEREAS, The people of the Republic of Korea, like the people of this state and the United States, generally, have overcome great adversity and have built a successful, prosperous, free economy; and

WHEREAS, The Republic of Korea has been one of the most faithful allies of the United States since 1948; and

WHEREAS, Strong commercial ties now exist between the citizens of the Republic of Korea and the citizens of this state; and

WHEREAS, The people-to-people program initiated by President Eisenhower in 1956 and endorsed by President Kennedy in 1961 was designed to bring the people of the world closer together in the interests of peace and prosperity; and

WHEREAS, A friendship and commerce relationship between the Republic of Korea and California is in the best interest of a cooperative and mutually beneficial relationship for the people of the two geo-political entities involved; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature, on behalf of the people of the State of California, extends to the people of the Republic of Korea, an invitation to join California in a friendship and commerce relationship and to conduct mutually beneficial social, economic, educational, and cultural programs in order to bring our citizens closer together and strengthen international understanding and goodwill; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Prime Minister of the Republic of Korea, the Speaker of the National Assembly, the Mayor of Seoul, Republic of Korea, George Deukmejian, Governor of California, each Member of Congress from the State of California and to the presiding officers of the legislative houses of the other states of the Union.

RESOLUTION CHAPTER 98

Assembly Joint Resolution No. 11—Relative to air traffic safety.

[Filed with Secretary of State September 14, 1987]

WHEREAS, More than 50 major air disasters have occurred since the National Safety Council warned, on August 17, 1964, that collision prediction can only be achieved through the use of three-dimensional measurement radar, which is radar capable of measuring longitude, latitude, and altitude; and

WHEREAS, These air disasters have resulted in the tragic loss of hundreds of lives, including 87 deaths in the recent midair collision of an Aero-Mexico airliner and a small private plane over Cerritos, California; and

WHEREAS, The Cerritos air disaster could in all likelihood have been prevented had air traffic controllers been informed of the private aircraft's altitude and pending collision course with the Aero-Mexico airliner, and this could have been readily provided through the use of a three-dimensional tracking system; and

WHEREAS, Current airborne collision avoidance systems, as evidenced by continued midair tragedies, are not sufficiently effective in ensuring public safety due to the absence of the means of making an altitude determination; and

WHEREAS, Recognized experts in the field of flight radar detection have testified that a cost-effective ground-based three-dimensional collision warning system is practicable and available in the form of bistatic or listen-only radar, a one-way radio broadcast transmission system which informs monitoring commercial aircraft pilots of collision bound aircraft; and

WHEREAS, Bistatic or listen-only radar systems may be installed using existing technology at far less cost than alternative airborne systems capable of measuring altitude as well as longitude and latitude; 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 initiate emergency expert analysis of three-dimensional radar as an interim remedy to the current situation; and be it further

Resolved, That the Legislature urges the boards of supervisors of all California counties which host major commercial air traffic to adopt measures in support of this resolution, to communicate these measures to the President and Congress, and to provide local funding for analyses of bistatic, listen-only radar by counties; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the board of supervisors of each county in California, and to the Administrator of the Federal Aviation Administration.

RESOLUTION CHAPTER 99

Assembly Joint Resolution No. 14—Relative to information on antifouling paints.

[Filed with Secretary of State September 14, 1987]

WHEREAS, The Environmental Protection Agency is designated by the federal government as the agency responsible for the protection of our coastal environment; and

WHEREAS, An ever-increasing body of evidence is indicating that tributyltin-based antifouling paints can cause significant harm to the environment, especially shellfish; and

WHEREAS, The Environmental Protection Agency has the expert staff necessary to prepare and distribute appropriate informational

and educational materials on the use of antifouling paint and its potential adverse impact on our marine environment; and

WHEREAS, The Pacific Fisheries Legislative Task Force is willing to assist with coordination and development in the preparation and distribution of educational materials; and

WHEREAS, The failure to take informative and preventative steps could lead ultimately to regulation at either the state or federal level to eliminate or significantly reduce the potentially devastating adverse impacts on the environment and the related domestic fishing economics; and

WHEREAS, Similar educational leaflets such as "Don't Foul Things Up" have previously been prepared by the Royal Yachting Association in cooperation with the United Kingdom, Department of the Environment, and other bodies to serve as an example and guide; 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 and encourages the Environmental Protection Agency to devote all necessary staff and effort to prepare and distribute appropriate informational and educational materials on antifouling paints at the earliest possible date to further the protection of our marine environment and to help foster a positive economic climate, especially since less environmentally damaging alternatives are available; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Administrator of the Environmental Protection Agency, and to each Senator and Representative from Alaska, California, Hawaii, Idaho, Oregon, and Washington in the Congress of the United States.

RESOLUTION CHAPTER 100

Assembly Joint Resolution No. 32—Relative to a national maritime museum in San Francisco.

[Filed with Secretary of State September 14, 1987]

WHEREAS, The State of California, with its long Pacific coastline, has been a maritime power since its earliest settlement; and

WHEREAS, The vessels which have sailed the Pacific Ocean to and from California over the course of the state's history have been, in great measure, responsible for the development of the entire west coast of the United States and the growth and prosperity of California; and

WHEREAS, It is fitting and proper for a representative collection of the vessels that made this history be preserved and exhibited in

San Francisco so that generations to come may better understand our maritime history; and

WHEREAS, It was one of the legislative goals of the late Representative Sala Burton of San Francisco to make a maritime museum in San Francisco a reality; and

WHEREAS, Representative Burton's cause has been taken up by Representative Udall, Chairperson of the House Interior and Insular Affairs Committee, who has introduced legislation with the cosponsorship of 27 members of the California congressional delegation to establish a national maritime museum in San Francisco for the preservation and presentation of maritime artifacts and historic vessels including the sailing ship Balclutha, the steam schooner Wapama, the steamship SS Jeremiah O'Brien, the ferry Eureka, the schooner C. A. Thayer, the tug Eppleton Hall, the tug Hercules, and the scow schooner Alma presently located at the Golden Gate National Recreation Area; and

WHEREAS, The preservation of these important elements of our maritime history is in the best interests of California and the nation; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and Congress are respectfully memorialized to support and enact legislation establishing a national maritime museum in San Francisco; 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 Chairperson of the House Interior and Insular Affairs Committee.

RESOLUTION CHAPTER 101

Assembly Concurrent Resolution No. 7—Relative to the creation of the California Foundation on Aging.

[Filed with Secretary of State September 14, 1987]

WHEREAS, California, with more than 3 million residents aged 65 and older, leads the nation with the greatest number of elderly retired residents; and

WHEREAS, The elderly population of California will continue to grow in both absolute and relative numbers; and

WHEREAS, The growing elderly population of California will place greater demands upon public resources from all levels of government; and

WHEREAS, The Legislature finds that the ability of government to respond to the growing needs of the state's elderly population is

finite because of economic realities and constitutional and statutory limitations on public spending; and

WHEREAS, The Legislature finds that the private sector is the source of both public revenues and private funding for voluntary organizations that serve, among others, older persons in California; and

WHEREAS, The Legislature finds that many businesses, philanthropic organizations, and individual Californians would like to contribute to programs and services that benefit their older relatives, neighbors, and fellow citizens; and

WHEREAS, The Legislature finds that there is a need for a statewide and private nonprofit medium through which the state's dynamic private sector can augment both private and public services and programs that benefit the growing elderly population of California; and

WHEREAS, The Legislature finds that the California Commission on Aging, the principal advocate for the elderly in the state, has demonstrated its concern for and commitment to the elderly; and

WHEREAS, The California Commission on Aging has successfully sponsored the 1981 California State House Conference on Aging, the California Senior Legislature, and the California Fund for Senior Citizens; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Commission on Aging is hereby requested to incorporate the California Foundation on Aging as a nonprofit public benefit corporation for the purpose of soliciting, receiving, and disbursing contributions for the establishment and benefit of senior projects and programs throughout the State of California; and be it further

Resolved, That the Legislature intends that the California Foundation on Aging, once incorporated, shall be considered solely a private nonprofit corporation, and that the State of California shall have no legal relationship, obligations, or responsibilities to the foundation once it is incorporated; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the California Commission on Aging.

RESOLUTION CHAPTER 102

Assembly Concurrent Resolution No. 39—Relative to incentives for improving undergraduate teaching.

[Filed with Secretary of State September 14, 1987]

WHEREAS, Excellence in teaching is of vital importance in higher education; and

WHEREAS, Active support of teaching, both institutional and

external, is essential for a strong system of higher education; and

WHEREAS, Active involvement in learning is a key factor for intellectual growth and the development of critical analytical abilities; and

WHEREAS, Many students perceive higher education as the passive reception of transmitted knowledge and thereby, as asserted by students themselves, become "passive observer's in one's own education"; and

WHEREAS, Good teachers ensure that students do not become passive learners but active participants in their education; and

WHEREAS, Recent surveys of recent University of California graduates show that a significant proportion of those graduates have expressed a high degree of satisfaction with the value and quality of their undergraduate education; and

WHEREAS, University of California, Los Angeles students, in a recent report, complain of being "subjected to large courses and treated impersonally" and of a lack of "meaningful interaction with faculty"; and

WHEREAS, Excessive emphasis on publication and research requirements could detract from quality teaching; and

WHEREAS, Within the California State University there has been a significant shift in recent years in the retention, promotion, and tenure process from emphasizing teaching to emphasizing research, publication, and grantsmanship; and

WHEREAS, Many recent national and California reports examining the conditions of undergraduate education acknowledge the "inadequacy of incentives and rewards for good undergraduate teaching"; and

WHEREAS, The "Smelser Report" recognizes the university challenge "to make most fruitful the match between students' intellectual and personal development on the one hand and their collegiate experience on the other"; and

WHEREAS, The Legislature finds that there is a need to encourage institutionalization of incentives for quality teaching; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby requests the Regents of the University of California to adopt and enforce policies and procedures which assure that teaching is comparable with research in the evaluation of faculty for hire, retention, promotion, and tenure; and be it further

Resolved, That the Board of Trustees of the California State University be requested to adopt and enforce policies that assure teaching is given primacy in the evaluation of faculty for hire, retention, promotion, and tenure; and be it further

Resolved, That the regents and the trustees are requested to adopt policies to encourage and allow a campus to utilize flexible faculty staffing mechanisms to meet changing student educational needs; and be it further

Resolved, That the regents and the trustees are requested to make appropriate personnel policy, organizational, and structural changes to facilitate flexible departmental staffing mechanisms; and be it further

Resolved, That the Legislature requests the Regents of the University of California, the Board of Trustees of the California State University, and the Board of Governors of the California Community Colleges adopt policies and procedures to assure that new faculty demonstrate competency in classroom teaching prior to entry into the classroom and that resources are made available to faculty members to assist them in improving their teaching performance; and be it further

Resolved, That the Legislature further requests the regents, trustees, and board of governors to establish appropriate incentives for improving teaching, apart from the personnel process for retention, promotion, and tenure. In establishing these incentives the regents, trustees, and board of governors should include consideration of, but not necessarily limit consideration to, the following: (1) distinguished teacher professorships; (2) sabbaticals which emphasize improving teaching; (3) paid leaves of absence to improve undergraduate teaching; (4) special awards in recognition of teaching improvements; and (5) special awards in recognition of outstanding teaching; and be it further

Resolved, That, by January 1, 1989, the regents, trustees, and board of governors are each hereby requested to submit reports to the educational policy and fiscal committees of the Legislature describing the actions taken to comply with this resolution and the costs associated with its full implementation; 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, the Trustees of the California State University, and the Board of Governors of the California Community Colleges.

RESOLUTION CHAPTER 103

Assembly Concurrent Resolution No. 41—Relative to teaching assistants of the University of California.

[Filed with Secretary of State September 14, 1987.]

WHEREAS, Teaching assistants are valuable resources within the University of California and, with proper training and supervision, have proven to be effective teachers; and

WHEREAS, Recent surveys conducted at the Berkeley and Davis campuses of the University of California suggest that teaching assistants may become responsible for teaching as much as 30 percent of lower division courses on some campuses with a heavy

concentration in elementary writing and introductory language instruction; and

WHEREAS, The most relevant criteria for the selection of teaching assistants is an adequate command of the subject matter, a potential or demonstrated teaching aptitude, and an ability to communicate orally and in writing, in a clear and articulate fashion; and

WHEREAS, Recent student surveys on selected University of California campuses have found that some teaching assistants seriously lack English speaking skills necessary to effectively teach certain courses; and

WHEREAS, This inability to communicate effectively adversely affects undergraduate student performance; and

WHEREAS, Language problems of teaching assistants constitute one of the most frequent single complaint among undergraduate students; and

WHEREAS, These surveys also suggest that a significant proportion of teaching assistants on some campuses may not be supervised at all, and in other cases the supervision may be only perfunctory; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That each campus of the University of California should require all prospective teaching assistants who will be placed in classroom settings to demonstrate competence in oral communication, including those for whom English is not a native language who should demonstrate competence on an oral exam comparable to the written Test of English as a Foreign Language examination, including, but not limited to, the Test of Spoken English examination, and demonstrate an ability to communicate effectively before a group; and be it further

Resolved, That, in cases where a prospective teaching assistant is unable to demonstrate competence in oral communication, he or she should be required to improve fluency and communication skills through courses, workshops, or programs specifically designed for this purpose before classroom teaching begins; and be it further

Resolved, That all teaching assistants should be regularly evaluated, including for an ability to communicate effectively, by the university faculty whose courses they are employed to teach. The responsible faculty member should be required to submit a report to the departmental chair evaluating the performance and supervision of each teaching assistant. These reports should become a regular part of the faculty member's teaching record; and be it further

Resolved, That teaching assistants should have a means to regularly and confidentially submit to the department chair an evaluation of his or her perceptions of the quality of the training and supervision he or she received from the supervising faculty member or members; and be it further

Resolved, That the President of the University of California is hereby requested to submit a report to the educational policy

committees of the Legislature and the California Postsecondary Education Commission by December 31, 1988, which, by campus, (1) details the processes for selecting, financing, supervising, and evaluating teaching assistants; (2) delineates the number of teaching assistants, the discipline of study, the discipline of courses being taught, and the language of teaching assistants for whom English is not the native language; and (3) the steps taken to ensure English fluency of teaching assistants; 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 and to the President of the University of California.

RESOLUTION CHAPTER 104

Assembly Concurrent Resolution No. 43—Relative to drug abuse.

[Filed with Secretary of State September 14, 1987]

WHEREAS, On October 27, 1986, President Reagan signed into law the Anti-Drug Abuse Act of 1986 (Public Law 99-570); and

WHEREAS, The Anti-Drug Abuse Act of 1986 authorizes some six hundred million dollars ($600,000,000) for distribution to state and local agencies for the enforcement of drug laws; drug abuse treatment, rehabilitation, and prevention; and drug abuse prevention and educational programs; and

WHEREAS, This state's goal should be to not only spend the money received under the Anti-Drug Abuse Act of 1986 for the reasons for which the money was granted, but to spend it in a planned, coordinated, nonredundant fashion; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Department of Alcohol and Drug Programs, the Office of Criminal Justice Planning, and the State Department of Education, in administering funds under the federal Anti-Drug Abuse Act of 1986, shall participate in a coordinated statewide effort to implement initiatives specifically required by that act, and shall submit a joint report to the Legislature by December 31, 1988, containing the following:

(1) How much funds have been received by which agency.

(2) For what purposes funds have been spent, including the detailing of any administrative and program costs.

(3) A documentation of the methods used to assure a coordinated planning and implementation effort.

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Department of Alcohol and Drug Programs, the Office of Criminal Justice Planning, and the State Department of Education.

RESOLUTION CHAPTER 105

Assembly Concurrent Resolution No. 46—Relative to rape on university or college campuses.

[Filed with Secretary of State September 14, 1987]

WHEREAS, A 1985 national survey of over 6,000 students on 32 college campuses revealed that one in eight women have been raped; and

WHEREAS, That study indicated that 85 percent of these incidents occurred among students who knew one another and 5 percent of the attacks involved more than one assailant; and

WHEREAS, Three-quarters of the victims of acquaintance rape did not identify their experience as rape and none of the males involved believed they had committed a crime; and

WHEREAS, Forty-five percent of the males who committed acquaintance rape said they would repeat the experience; and

WHEREAS, More than one-third of the women raped did not discuss the experience with anyone and more than 90 percent of them did not report the incident to the police; and

WHEREAS, Another national study of campus gang rapes shows that in most instances, the men involved received little or no punishment; and

WHEREAS, Most academic institutions in California do not have formal policies or procedures that deal adequately with acquaintance rape or gang rape; and

WHEREAS, Academic institutions have a legal and moral responsibility to protect the safety of members of their academic communities; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That all institutions of higher education in the state should provide information to victims of alleged incidents of rape regarding available options that he or she may pursue, and that the institution of higher education should respond promptly to the option selected by the victim; and be it further

Resolved, That all institutions of higher education in the state should establish and utilize clear and consistent sexual assault policies which may be incorporated into the current disciplinary policies of each campus that do both of the following:

(a) Provide an institutional disciplinary process based on the principle of due process, which shall include a disciplinary hearing.

(b) Set forth and respect the rights of victims , such as the following:

(1) Equal rights, with the accused, in determining whether the hearing shall be open or closed. When there is disagreement, the hearing officer shall determine whether the hearing shall be open or closed in a manner consistent with the due process rights of the accused.

(2) The ability to have a person of the victim's choice accompany the victim throughout the disciplinary hearing.

(3) The right to be present during the entire hearing.

(4) The right not to have his or her past sexual history introduced as part of the testimony, except that the past sexual history of the victim shall be permitted if offered as evidence of the character or trait of character of the victim for the purposes described in Section 1103 of the Evidence Code.

(5) The right to a prompt relocation of one of the parties, in a manner consistent with the terms of the university facility contract or dormitory contract when the accused and the victim live in the same university facility or dormitory; and be it further

Resolved, That all institutions of higher education should develop, publicize, and enforce clear and consistent policies for taking appropriate actions against members of the campus community who participate, directly or indirectly, in rape that occurs on the property of the institution or at a campus-related function or activity. The penalties should include, but need not be limited to, suspension or expulsion for persons found, by the academic institution or a judicial court, to have committed the crime of rape and speedy removal of alleged assailants who live in the same dormitory or other campus housing as a victim; and be it further

Resolved, That all institutions of higher education should add specific language to the student codes of conduct and the dormitory rules and regulations prohibiting rape and other forms of sexual battery and specifying the penalties for the commission of these crimes; and be it further

Resolved, That all institutions of higher education should provide all freshman students and dormitory, fraternity, and sorority residents with information or annual seminars that include, but are not limited to, the following:

(1) The legal definition of rape.

(2) Student, acquaintance, and gang rape statistics.

(3) Penalties for rape; and be it further

Resolved, That all institutions of higher education in California with counseling centers that receive financial support from the institution should maintain at least one staff member who has competency in the most current therapeutic approach to acquaintance rape. This counseling should be offered in a timely manner; and be it further

Resolved, That all institutions of higher education in California with counseling centers on campus and in the community should develop a comprehensive data collection system to provide campus and community members with information on the incidents of sexual assault. To the extent data is available, it shall include, but not be limited to, all of the following information:

(a) The number of student rape victims coming to the center.

(b) Whether the assailant was a stranger or an acquaintance.

(c) Whether the rape was a gang rape.

(d) Whether the crime occurred on campus or at a campus-related event. Every campus should publicize the results and should report the results to its respective systemwide office or its statewide membership association. Those systemwide offices and membership associations should make a comprehensive report available to the Legislature; and be it further

Resolved, That "rape" for the purposes of this resolution means rape as defined in Section 261 of the Penal Code and that "acquaintance rape" for the purposes of this resolution means rape as defined in Section 261 of the Penal Code that is committed by an assailant who is known to the victim; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to each institution of higher education in this state.

RESOLUTION CHAPTER 106

Assembly Concurrent Resolution No. 55—Relative to Rancho Cucamonga.

[Filed with Secretary of State September 14, 1987]

WHEREAS, From October 8, 1987, to October 11, 1987, the Rancho Cucamonga Chamber of Commerce will once again sponsor the Grape Harvest Festival, also previously known as the "Wine Festival"; and

WHEREAS, The festival takes place for a number of reasons including celebration of the grape industry, the wine industry, and the community, and allows the chamber an opportunity to raise funds to help continue its many community projects; and

WHEREAS, Señor Tabrucio Tapia was granted the Cucamonga Rancho in 1839 by the then Governor and the Franciscan Fathers at the Mission San Gabriel; and

WHEREAS, Señor Tapia continued to raise cattle but also planted vineyards and began a winery that continues to operate today; and

WHEREAS, The Thomas Brothers Winery has been declared a state historic landmark as the oldest winery in California and is the second bonded (after the Cucamonga Wine Company) winery in the nation; and

WHEREAS, Although the grape and wine industries in the area continue to operate today on a much smaller scale, they once held the largest vineyards in the world, and their past contributions to the area economy remain a part our history; and

WHEREAS, Even though few wineries are in operation today, mostly on a local level producing wines from grapes grown in other areas of the state, it is in the valley of the Rancho Cucamonga where commercial grape growing and wine making began in the State of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Grape Harvest Festival conducted at Rancho Cucamonga be designated as the oldest Grape Harvest Festival in the State of California.

RESOLUTION CHAPTER 107

Assembly Concurrent Resolution No. 67—Relative to the Richard T. Silberman Bridge.

[Filed with Secretary of State September 14, 1987]

WHEREAS, Richard T. Silberman has made significant contributions to the redevelopment of the downtown area of the City of San Diego; and

WHEREAS, He has ably served as President of the San Diego Transit Corporation and as President of the Centre City Development Corporation, which are two of the most critical nonelected decisionmaking and promotional positions in city government; and

WHEREAS, Mr. Silberman served in state government as the Secretary of the Business and Transportation Agency, Chief of Staff and Executive Secretary to Governor Edmund G. Brown, Jr., and as State Director of Finance; and

WHEREAS, A graduate of San Diego State University with a degree in physics, he was a prodigy in the electronics industry at the age of 13 when, as a Wilson Junior High School student, he repaired radios and operated one of San Diego's early television repair shops while attending college, and later worked in the electronics and guidance section at Convair before joining Kalbfell Industries; and

WHEREAS, He was named executive vice president of Electronics Capital Corporation, the largest small-business conglomerate of its kind, upon its creation, and he simultaneously served on the San Diego City Board of Education and the Board of Governors of the San Diego Stadium; and

WHEREAS, In 1965, he organized the most successful COMBO auction to that date, raising $235,000 for the Old Globe Theatre, the San Diego Symphony Association, and the San Diego Opera Guild; and

WHEREAS, As the first head of the Centre City Development Corporation, he helped give downtown redevelopment momentum, saw in the revitalization of the urban core a pattern for future adjustment to less abundant and more expensive energy, and enabled the City of San Diego to demonstrate workable solutions for urban transportation, environmental, and economic problems; and

WHEREAS, As first Chairperson of the California Medical Assistance Commission, Mr. Silberman was instrumental in leading

the commission through the development of its varied programs, and was particularly responsible for the level of success the commission has achieved in contracting with health care providers to deliver health care services to Medi-Cal recipients; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the bridge on State Highway Route 15 at Clairemont Mesa Boulevard is hereby officially designated the Richard T. Silberman Bridge; 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.

RESOLUTION CHAPTER 108

Assembly Concurrent Resolution No. 70—Relative to University of California admissions.

[Filed with Secretary of State September 14, 1987]

WHEREAS, The Legislature is committed to provide access to public higher education for all Californians; and

WHEREAS, A great deal of attention has focused on the University of California admissions policies and how these policies affect Asian-Pacific applicants; and

WHEREAS, There has been a growing concern within the Asian-Pacific community that the university has been establishing admissions policies which have the effect of imposing a quota on the number of highly qualified Asian-Pacific applicants to the university; and

WHEREAS, The Legislature has encouraged the University of California to promote ethnic diversity by including underrepresented ethnic minorities in its student body; and

WHEREAS, The need to promote diversity should not be interpreted to limit any ethnic or any racial applicant who is qualified for admission; and

WHEREAS, An Asian American Task Force on University Admissions was created in November 1984 to study and to monitor the admissions policies and procedures of the University of California at Berkeley; and

WHEREAS, This task force was composed of Asian-Pacific community leaders in the San Francisco Bay area; and

WHEREAS, The task force issued a report and concluded that

major improvements needed to be made in the admissions process at the Berkeley campus; and

WHEREAS, The findings and recommendations of the task force are applicable not only to the Berkeley campus but also to all campuses within the University of California system; and

WHEREAS, The findings and recommendations of the task force are applicable not only to the concerns of the Asian-Pacific community but also to all applicants who are desirous of attending the University of California; and

WHEREAS, Resolution Chapter 68, Statutes of 1984 (ACR 83—Chacon) required the various educational segments to submit recommendations for action so that, by 1990, the income and ethnic composition of secondary school graduates for admission to public four-year colleges shall be at least equal to or greater than the income and ethnic composition of secondary school graduates generally; and

WHEREAS, Resolution Chapter 209, Statutes of 1974 (ACR 151—Vasconcellos) specified that underrepresentation of certain students be eliminated by providing additional student spaces rather than by rejecting any qualified student; and

WHEREAS, The application and admissions procedures in a public university system should be made accessible to all interested parties; and

WHEREAS, Any changes in admissions policies should be provided with sufficient advance notice to the applicants and their families so that applicants have ample time to respond to the changing university admissions criteria; and

WHEREAS, It is not clear why applicants are required to utilize a uniform application for admission to the university when each campus has different admissions criteria; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature requests that the Regents of the University of California undertake the following activities:

(1) Require that each campus of the University of California consider including representatives on its admissions and enrollment committee who respond to, and to the extent possible, reflect the diversity, interests, and concerns of all ethnic minority groups.

(2) Require all campuses of the University of California to publicly disclose in their catalogs and applications packets their policies, process, and criteria for selection of freshman applicants, educational opportunity program applicants, and transfer applicants.

(3) Require all campuses of the University of California to include in their outreach activities visits to high schools to inform counselors, students, and their parents of the admissions requirements, admissions policies, and admissions procedures of the various campuses within the university system.

(4) Require the campuses to institute an advisory committee or expand existing advisory committees of ethnic minority community leaders to provide a continuing dialogue on issues of concern to their communities; and be it further

Resolved, That the Regents of the University of California is hereby requested to submit a report to the education policy committees and fiscal committees of the Legislature, by no later than March 15, 1988, on the progress of the regents in doing the things requested in paragraphs (1) to (4) above; and be it further

Resolved, That the Regents of the University of California review its policy on systemwide undergraduate admissions and the selection process of the individual campuses. In conducting the review, the Regents of the University of California is requested to submit a study on the results of its review to the education policy committees and fiscal committees of the Legislature, by no later than March 15, 1988. The study shall include, but not be limited to:

(1) A description of the the university's admission policy and a description of the selection process of each campus for their freshman applicants, their economic opportunity program applicants, and their transfer applicants.

(2) A description of how the admissions policy and selection processes are developed and implemented on each campus, college, and school for their freshman applicants, their economic opportunity program applicants, and their transfer applicants.

(3) A detailed listing of the current membership of the admissions and enrollment committees of each campus by sex and ethnicity.

(4) Personnel data showing the sex and ethnicity of admissions office staff of each campus who review the applications for admission based on objective and subjective criteria.

(5) A description of the regents' recommendation and an analysis of how current policies and any subsequent changes in the admissions policies will affect potential applicants to the university system, by sex, ethnicity, and income level; and be it further

Resolved, That nothing in this resolution should be interpreted to mean that affirmative action efforts to increase underrepresented minorities should be diminished or eliminated; 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

Senate Concurrent Resolution No. 24—Relative to the Catalonia Sister State Legislative Task Force.

[Filed with Secretary of State September 15, 1987.]

WHEREAS, In Resolution Chapter 38 of the Statutes of 1986, the Legislature of the State of California extended to the autonomous Spanish Region of Catalonia an invitation to join the State of California as a sister region/state; and

WHEREAS, The Legislature has recognized California's many

similarities with the Region of Catalonia and the common culture and heritage which California and Catalonia share; and

WHEREAS, The quincentennial of the discovery of America by Christopher Columbus, who sailed for Spain with crew members from Barcelona, Majorca, and other Catalonian provinces, will be celebrated in 1992; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That, effective upon the adoption of this measure, the Catalonia Sister State Legislative Task Force shall be established in accordance with the following provisions:

(a) The task force shall consist of 21 members, who shall be persons of diverse ethnic backgrounds reflective generally of California's population, including people of Catalonian and Spanish descent and people of Spanish-speaking heritage, along with other representatives of California's population. The members of the task force shall include the following:

(1) Fourteen (14) members of the public, who shall include seven (7) persons appointed by the Senate Committee on Rules and seven (7) persons appointed by the Speaker of the Assembly. These 14 public members shall include, but not be limited to, persons from the business, civic, educational, artistic, and scientific communities of the State of California who have an interest in furthering the sister state relationship between California and Catalonia.

(2) Three (3) members of the task force shall be designated by the following entities as specified below:

(A) A member or designee of the Regents of the University of California.

(B) A member or designee of the Trustees of the California State University.

(C) The Chairperson of the California Arts Council or his or her designee.

Each of the members appointed pursuant to this paragraph shall have a scholarly or cultural interest in, and experience with, the people and the cultural and educational institutions of Catalonia, or with the economy and industry of Catalonia and the principles of international trade.

(3) The President pro Tempore of the Senate or his or her designee.

(4) The Speaker of the Assembly or his or her designee.

(5) The Chairperson and Vice Chairperson of the Joint Committee on the Arts or their respective designees.

(b) The chairperson of the task force shall be the Chairperson of the Joint Committee on the Arts or his or her designee.

(c) (1) Eleven (11) members of the task force shall constitute a quorum.

(2) The task force shall be authorized to meet and take action when eleven (11) members have been duly appointed.

(d) Any vacancy on the task force shall be filled by the entity authorized to make the original appointment.

(e) The duties of the task force shall include, but not be limited to, each of the following:

(1) Encouragement of state agencies, including, but not limited to, the California Arts Council, the University of California, and the California State University, in the development of exchange programs between artists, scholars, educators, and scientists of California and Catalonia.

(2) The study of methods of encouraging private sector industrial, agricultural, and scientific exchanges of information and technology to the mutual benefit of the citizens of California and Catalonia.

(3) Reporting its findings and recommendations, in writing, periodically to the Legislature, with these reports to commence no later than September 1, 1988; and be it further

Resolved, That the Joint Committee on Arts shall make its staff available, as needed, to provide staff for the task force; and be it further

Resolved, That the Senate Committee on Rules may make such money available from the Contingent Fund of the Senate as it deems necessary for expenses of the task force. Any expenditure of money shall be made in compliance with policies set forth by the Senate Committee on Rules and shall be subject to the approval of that committee.

RESOLUTION CHAPTER 110

Senate Concurrent Resolution No. 41—Relative to hazardous waste.

[Filed with Secretary of State September 15, 1987]

WHEREAS, Small businesses that generate hazardous waste are experiencing unique problems in complying with hazardous waste control laws; and

WHEREAS, A recent change in the structure of the fees deposited in the Hazardous Waste Control Account in the General Fund, as created by Section 25174 of the Health and Safety Code, may be adversely affecting small businesses that produce hazardous waste; and

WHEREAS, An adverse impact would exacerbate the ability of small businesses to comply with hazardous waste laws; and

WHEREAS, It is in the public interest not to create obstacles to small businesses' voluntary compliance with hazardous waste laws; and

WHEREAS, California's small business sector is one of our state's most valuable resources and a major contributor to our economic development; and

WHEREAS, The interest of the people of the state is served by

strengthening the state's small businesses' ability to survive so that they can, in turn, strengthen our state's economy; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the State Department of Health Services is hereby requested to study the impact of the structure of the fees deposited in the Hazardous Waste Control Account in the General Fund, pursuant to Section 25174 of the Health and Safety Code, on the ability of small businesses to comply with hazardous waste laws and regulations; and be it further

Resolved, That the study draw upon existing sources of information available from the State Board of Equalization, the Department of Commerce, the Environmental Protection Agency, the California Chamber of Commerce, and other public and private agencies; and be it further

Resolved, That the State Department of Health Services report on its findings from the study and any recommendations it may develop to the Legislature on or before January 1, 1988; and be it further

Resolved, That if Senate Bill 1249 is enacted and chaptered before January 1, 1988, and requires the State Board of Equalization to undertake a study of the current fee structure, the board is requested to do the study requested by this resolution as part of that study; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the State Director of Health Services and the State Board of Equalization.

RESOLUTION CHAPTER 111

Senate Concurrent Resolution No. 46—Relative to the William T. Bagley Freeway.

[Filed with Secretary of State September 15, 1987.]

WHEREAS, William T. Bagley was first elected to the California Assembly in 1960 and served in the Assembly until 1974; and

WHEREAS, He served as the chairperson of several Assembly committees, including Revenue and Taxation, Finance and Insurance, Welfare, Judiciary, and National Tax Policy; and

WHEREAS, He was the nation's first chairperson of the Commodities Futures Trading Commission and served in that position from 1975 to 1978; and

WHEREAS, He was appointed to the Public Utilities Commission in 1983 and served until 1986; and

WHEREAS, He was appointed to the California Transportation Commission and is currently serving as its chairperson; and

WHEREAS, It would be a fitting tribute to his years of service

rendered to the people of California that State Highway Route 101 in Marin County be named in his honor; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That State Highway Route 101 from the Waldo Tunnel in Sausalito to State Highway Route 580 in San Rafael is hereby designated the William T. Bagley Freeway; and be it further

Resolved, That the Department of Transportation is hereby requested to determine the cost of appropriate signs, consistent with signing requirements for the state highway system showing this official designation and, upon receiving donations from private sources to cover that cost, to erect those signs; 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 William T. Bagley.

RESOLUTION CHAPTER 112

Senate Concurrent Resolution No. 48—Relative to investments by the Public Employees' Retirement System in California.

[Filed with Secretary of State September 15, 1987.]

WHEREAS, The financial health of the Public Employees' Retirement System rests on the strength of California's economy; and

WHEREAS, Some areas have not shared in the state's general economic growth, and their economic weakness threatens the economic vitality of the entire state; and

WHEREAS, Many of these areas are the location of natural resources including productive farm, range, and forest lands, fisheries, and unsurpassed scenic beauty and recreational opportunities that offer many prudent investment possibilities; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature requests the Public Employees' Retirement System to give priority to investment in California and particularly in natural resources in economically distressed counties in California, to the extent consistent with the statutory and constitutional fiduciary standard; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to each member of the Board of Administration of the Public Employees' Retirement System.

RESOLUTION CHAPTER 113

Senate Concurrent Resolution No. 55—Relative to Cancer Awareness Week in California.

[Filed with Secretary of State September 15, 1987]

WHEREAS, Cancer is one of the most urgent medical challenges of our day; and

WHEREAS, Cancer is predicted to strike in three out of four California families during a lifetime; and

WHEREAS, One hundred sixty thousand American lives can be saved this year through early detection of cancer; and

WHEREAS, There is good news about cancer in the fact that there are three million Americans alive today who have been "cured" of cancer; 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 declares the week of April 18-24, 1988, and the third week of April every year thereafter, Cancer Awareness Week; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Governor, the Secretary of the Health and Welfare Agency, the State Director of Health Services, and to the director of each county health department.

RESOLUTION CHAPTER 114

Senate Concurrent Resolution No. 56—Relative to Medi-Cal fiscal intermediary transition.

[Filed with Secretary of State September 15, 1987]

WHEREAS, The State of California is currently in the process of selecting a fiscal intermediary for processing Medi-Cal claims; and

WHEREAS, Medi-Cal providers have experienced difficulties with claims processing, claim reconciliation, and cash-flow to the degree that many have dropped out of the Medi-Cal program or are seriously considering dropping out of the Medi-Cal program; and

WHEREAS, There is extreme concern among Medi-Cal providers that, in the event there is a transition from one contractor to another, this may result in claims processing and cash-flow problems as experienced during the latest transition in 1979–80; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Department of Health Services shall: (1) do everything within its authority to ensure that the Medi-Cal fiscal intermediary transition is smooth and trouble-free; (2) ensure that the processing and payment of Medi-Cal claims is maintained at

normal historical levels with no interruption or reduction in cash-flow to providers; (3) communicate with all major statewide provider groups on a routine basis to identify and resolve problems in order to maintain adequate provider participation in the Medi-Cal program, thereby ensuring access to health care for the poor and elderly in California; and be it further

Resolved, That the Secretary of the Senate be directed to transmit a copy of this resolution to the Director of the Department of Health Services.

RESOLUTION CHAPTER 115

Senate Joint Resolution No. 3—Relative to telephone services.

[Filed with Secretary of State September 15, 1987]

WHEREAS, The federal plan to deregulate the nation's telephone network has resulted in a variety of changes in services, products and costs which have confused and angered Americans who have been used to a single reliable monopoly telephone service provider; and

WHEREAS, A recent decision by the Federal Communications Commission to deregulate the inside wire maintenance service, usually routinely provided by local telephone corporations, has caused a new level of confusion for the state's ratepayers and raised several important issues with respect to further deregulation of telephone services; and

WHEREAS, The state's ratepayers have financed, through their telephone rates paid to telephone corporations, the technical expertise to develop the sound and rational repair program which has served telephone subscribers who have had inside telephone wiring problems; and

WHEREAS, The Federal Communications Commission's decision to deregulate telephone service was in anticipation of a competitive repair marketplace which seems unlikely to materialize given the existing advantages the present telephone corporations have in the market; and

WHEREAS, The Legislature of the State of California has already expressed its strong support in Resolution Chapter 80 of the Statutes of 1986 for preserving the state's authority to regulate intrastate telephone service with respect to accounting methods and other regulatory decisions which affect local telephone rates; and

WHEREAS, Legislation may be reintroduced in the 100th Congress of the United States to transfer all future telephone deregulation authority to the Federal Communications Commission which, because of the Federal Communications Commission's policies which support competition, could detrimentally impact other local telephone services now regulated by the Public Utilities

Commission; 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 to reverse the decision to deregulate inside wiring maintenance by the Federal Communications Commission and thereby reestablish state authority over this public utility service; and be it further

Resolved, That the California Legislature hereby supports present efforts by the Public Utilities Commission to oppose usurpation of its authority by the Federal Communications Commission with respect to the regulation of inside wiring maintenance; and be it further

Resolved, That the California Legislature opposes legislative proposals by the Congress of the United States to transfer authority from the Department of Justice to the Federal Communications Commission to deregulate telephone services, unless the Congress also requires significant input on these policy changes by state regulatory commissions, and local residential and business telephone subscribers; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Chairperson of the Federal Communications Commission, and to the Public Utilities Commission.

RESOLUTION CHAPTER 116

Senate Joint Resolution No. 15—Relative to the depletion of the ozone layer.

[Filed with Secretary of State September 15, 1987]

WHEREAS, A growing scientific consensus supports the view that the worldwide release of chlorofluorocarbons and certain other manufactured chemicals can deplete the Earth's ozone layer, resulting in adverse effects on human health and the environment; and

WHEREAS, It is necessary to take appropriate measures to protect human health and the environment against adverse effects resulting from the release of chlorofluorocarbons and certain other manufactured chemicals which may deplete the ozone layer; and

WHEREAS, There is a need for international cooperation to reduce emissions of chlorofluorocarbons and certain other manufactured chemicals which may deplete the ozone layer; and

WHEREAS, The worldwide use of chlorofluorocarbons continues to grow; and

WHEREAS, Safe alternatives can be developed in a reasonable

time; and

WHEREAS, The United States and certain other countries have already taken formal precautionary measures for reducing emissions of chlorofluorocarbons by imposing a ban in 1978 on the use of chlorofluorocarbons as aerosol propellants; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California supports the President and the Congress of the United States in taking appropriate measures to protect human health and the environment against adverse effects resulting from the release of chlorofluorocarbons and other manufactured chemicals that can significantly deplete the ozone layer; and be it further

Resolved, That the Legislature hearby memorializes the President to negotiate an immediate reduction in the use of chlorofluorocarbons in the European Community and in other nations; and be it further

Resolved, That the Legislature further memorializes the President to negotiate a worldwide program as expeditiously as practicable for the elimination of fully halogenated chlorofluorocarbons and other manufactured chemicals that may deplete the ozone layer; 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 117

Assembly Concurrent Resolution No. 47—Relative to the Mojave Freeway.

[Filed with Secretary of State September 17, 1987]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the portion of State Highway Route 15 from its intersection with State Highway Route 215 at Devore to the Nevada state line is hereby officially designated the Mojave Freeway; 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 118

Assembly Concurrent Resolution No. 72—Relative to water.

[Filed with Secretary of State September 17, 1987]

WHEREAS, Precipitation in California's principal water supply areas in the 1986–87 water year was only about one half of normal; and

WHEREAS, The 1986–87 water year is one of the driest on record and has been classified as critical; and

WHEREAS, There is enough water stored in California's reservoirs and ground water basins from earlier years to meet most of this year's urban and agricultural needs; however, if next year is a dry year, water supplies would be insufficient to meet many of next year's needs; and

WHEREAS, The current level of storage in the reservoirs of the state water project system is below that level which occurred in 1976, and if next year is a dry year, there will be serious water supply deficiencies for state water project contracting agencies; and

WHEREAS, California's water agencies and the Department of Water Resources have developed and have begun carrying out many new water conservation programs since the drought of 1976–77; and

WHEREAS, Experience with the 1976–77 drought showed the need for interagency cooperation and innovative approaches to alleviating hardships caused by the drought; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That California's agricultural and urban water agencies are encouraged to carry out as many new, voluntary conservation measures as are feasible and cost-effective; and be it further

Resolved, That the Department of Water Resources is requested to develop suggested drought water conservation programs, to make them available to all urban and agricultural water agencies in the state, and to provide technical advice and assistance in water conservation activities; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, the Director of Water Resources, and to each water agency in the state.

RESOLUTION CHAPTER 119

Assembly Concurrent Resolution No. 86—Relative to designating the week of October 4, 1987, through October 10, 1987, as Mental Illness Awareness Week.

[Filed with Secretary of State September 17, 1987]

WHEREAS, Mental illness is a problem of grave concern and consequence, though one widely but unnecessarily feared and misunderstood; and

WHEREAS, 3.1 million to 4.1 million Californians annually suffer from clearly diagnosable mental disorders involving significant disability with respect to employment, attendance at school, or independent living; and

WHEREAS, More than 1 million Californians are disabled for long periods of time by schizophrenia, manic depressive disorder, and major depression; and

WHEREAS, Research in recent decades has led to a wide array of new and more effective treatment, both medical and psychosocial, for some of the most incapacitating forms of mental illness, including schizophrenia, major affective disorders, phobias, and phobic disorders; and

WHEREAS, Appropriate treatment of mental illness has been demonstrated to be cost-effective in terms of restored productivity, reduced utilization of other health services, and lessened social dependence; and

WHEREAS, Recent and unparalleled growth in scientific knowledge about mental illness has generated the current emergence of a new threshold of opportunity for future research advances and fruitful application to specific clinical problems; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims the week beginning on October 4, 1987, as "Mental Illness Awareness Week"; and be it further

Resolved, That the Governor is hereby requested to issue a proclamation calling upon the people of California to observe the week with appropriate ceremonies and activities; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor of the State of California.

RESOLUTION CHAPTER 120

Assembly Concurrent Resolution No. 90—Relative to Computer Learning Month.

[Filed with Secretary of State September 17, 1987.]

WHEREAS, The United States Congress has legislatively declared the month of October 1987 as "Computer Learning Month" by introduction of H.J. Resolution 206 and S.J. Resolution 103; and

WHEREAS, A number of educational, business, and public interest groups across the nation have plans underway to focus attention on

computer learning during October 1987; and

WHEREAS, "Computer Learning Month" has gained the support and attention of the Education Software Committee of the Software Publishers Association and of organizations and associations within the educational community; and

WHEREAS, California's recognition of "Computer Learning Month" will give emphasis and support to programs important to the education of our youth, their future productivity, and the competitiveness of our state; and

WHEREAS, It is widely recognized that the strength of our state's educational system depends on preparing students to become future leaders, and the integration of new technologies into the curriculum is a necessary step in ensuring that goal; and

WHEREAS, It is widely recognized that the continued health of California's economy is directly linked to the ability of our state's educational system to prepare students to work in businesses and factories facing rapid technological change to continue to compete in the world marketplace, and that familiarity with, and basic competency in the use of computers is a basic building-block of that preparation; and

WHEREAS, Activities during "Computer Learning Month" will be designed to expand public awareness of how computers and software are used educationally, and to emphasize that computer literacy is not an end in itself, but rather a means for opening doors to productivity, creativity, and general learning; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Governor is hereby requested to proclaim the month of October 1987 as "Computer Learning Month" in California, in recognition of the importance of educating California's youth about computer technology as a means to secure our state's preeminence as one of the world's leaders in advanced technology; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor of the State of California.

RESOLUTION CHAPTER 121

Assembly Concurrent Resolution No. 92—Relative to "Coast Week" and "California Coastal Clean-Up Day."

[Filed with Secretary of State September 17, 1987]

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 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 and support and an understanding that protection of the coast is a responsibility shared by individual citizens, the business community, and public institutions; and

WHEREAS, National Coast Week will be held from September 19 through October 12, 1987; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby declares that the period of October 4 through 10, 1987, be proclaimed as "Coast Week" and the day of October 10, 1987, be proclaimed as "California Coastal Clean-Up Day;" and be it further

Resolved, That individual citizens, businesses, groups, and other 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 Chief Clerk of the Assembly to the California Coastal Commission, the State Coastal Conservancy, the Resources Agency, the San Francisco Bay Conservation and Development Commission, the Department of Fish and Game, the California Waste Management Board, the Department of Boating and Waterways, and to all local governments in the coastal zone.

RESOLUTION CHAPTER 122

Assembly Joint Resolution No. 37—Relative to the boundaries of Alaska.

[Filed with Secretary of State September 17, 1987]

WHEREAS, The boundaries of the State of Alaska are of vital concern to the state government of Alaska; and

WHEREAS, The essence of sovereignty of a state within America's federal system requires that a state government have complete and unambiguous jurisdiction over well-defined geographical boundary lines; and

WHEREAS, Any time that boundaries of a state are to be altered in any way, that state has an essential and overriding interest in the determination of the boundary; and

WHEREAS, Alaska is unique among all American states in that it is the only state with the potential for having boundaries with more than one foreign country (i.e. Canada and the Soviet Union); and

WHEREAS, Boundaries with foreign countries and a state are, and ought to be, coterminous with America's national boundaries with those foreign countries; and

WHEREAS, Negotiations are underway between the United States Department of State and the government of the Soviet Union over setting boundaries between the United States and the Soviet Union, and there have been at least seven rounds of negotiations on this issue since 1981; and

WHEREAS, The economic issues of petroleum, fishery, and other valuable resources have great impact on Alaska's welfare and prosperity; and

WHEREAS, At no time has the United States Department of State allowed, or even offered to invite, a representative of the state government of Alaska to be on any negotiating delegation, nor has it formally solicited the input or advice of the state government of Alaska over the content or form of these negotiations; and

WHEREAS, These negotiating delegations, which the United States Department of State has assembled, have included representatives of various other agencies of the federal government; and

WHEREAS, It is settled procedure for negotiation of boundaries that representatives of any affected state not only must be included in the negotiations, but also must consent to the proposed terms of the boundary treaty (such as was the case when Secretary of State Daniel Webster negotiated with Great Britain in 1842 over the boundary between Canada and the State of Maine); and

WHEREAS, A usurpation of one state's rights and sovereignty is an attack on the entire federal system of the United States of America; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California supports the State of Alaska in its rightful position of participation in any boundary negotiations involving its boundaries with the Soviet Union or Canada; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to ensure that any terms and conditions of any boundary agreement with respect to Alaska's boundaries are consented to by the State of Alaska, and that any such boundary agreement is drafted in the form of a treaty for ratification by the United States Senate; 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 Governor of Alaska.

RESOLUTION CHAPTER 123

Assembly Joint Resolution No. 41—Relative to the purchase of MH-60G "Black Hawk" helicopters.

[Filed with Secretary of State September 17, 1987.]

WHEREAS, The California Air National Guard is an integral part of the national defense effort and an equal military partner with the United States Air Force under the Total Force Policy; and

WHEREAS, The 129th Aerospace Rescue and Recovery Group (ARRG) operated by the California Air National Guard located at Moffett Naval Air Station is the sole West Coast component of the total United States Air Force worldwide rescue capability; and

WHEREAS, The 129th AARG rescue unit is equipped with HH-3E helicopters; and

WHEREAS, HH-3E helicopters do not possess suitable navigation capability, high-altitude performance, long-range flight performance, night vision compatible equipment, defensive systems, or survivability to penetrate sophisticated combat environments to execute combat rescue missions; and

WHEREAS, The HH-3E helicopter is increasingly difficult to support and maintain due to aging equipment and lack of spare parts; and

WHEREAS, The MH-60G "Black Hawk" helicopter is currently in production and possesses high performance capability, state-of-the-art navigation and communications equipment, and the ability to survive while performing combat rescue missions; and

WHEREAS, The MH-60G "Black Hawk" helicopter is an affordable, suitable helicopter to perform a rescue and recovery mission; 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 appropriate funds to purchase six MH-60G "Black Hawk" helicopters in rescue configuration, for express assignment to the 129th Aerospace Rescue and Recovery Group at Moffett Naval Air Station in the State of California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 124

Assembly Joint Resolution No. 47—Relative to maintenance of family unity by undocumented immigrants.

[Filed with Secretary of State September 17, 1987]

WHEREAS, The federal Immigration Reform and Control Act of 1986 (Public Law 99-603) makes numerous changes in federal immigration laws and permits eligible undocumented immigrants to apply for legal resident status; and

WHEREAS, The federal immigration act does not expressly provide for maintaining the family units of persons whose family members appear not to qualify for legal resident status and thereby creates hardships for those families and for family unity; and

WHEREAS, The separation of family members is directly contrary to the traditional and cherished value in American society of family unity and family support which should not be sacrificed in the effort to achieve the goals of the Immigration Reform and Control Act of 1986; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully urges the President and the Congress of the United States to support federal legislation which waives the continuous residence requirement under the legalization program for spouses and children of qualified legalized aliens, and for parents of United States citizen children born on or after December 31, 1981, and before November 7, 1986, introduced by Members of the California Congressional Delegation, United States Senator Cranston and Representative Roybal, that address these important issues of family unity; and be it further

Resolved, That the Legislature of the State of California respectively memorializes the President and the Congress of the United States to amend the Immigration Reform and Control Act of 1986 to clarify that the intent of that act was not to break up or separate immediate family members who are seeking to become legal residents and eventually American citizens; and be it further

Resolved, That the Commissioner of the Immigration and Naturalization Service is respectfully urged to issue administrative directives to all INS district offices to grant deferred action status to family members who appear not to qualify under the provisions of the new immigration act in order to avoid the breakup of family units and separation of family members; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Commissioner of the Immigration and Naturalization Service, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 125

Assembly Joint Resolution No. 53—Relative to "Red Ribbon Week".

[Filed with Secretary of State September 17, 1987]

WHEREAS, Californians for Drug Free Youth, Inc., a statewide parent/community organization, and the California Department of Alcohol and Drug Programs are cosponsoring "Red Ribbon Week" October 25–31, 1987; and

WHEREAS, Schools, businesses, law enforcement, churches, hospitals, service clubs, government agencies, and individuals in the State of California will demonstrate their commitment for a drug-free society by wearing and displaying red ribbons during this weeklong campaign; and

WHEREAS, The community of Sacramento has further committed its resources to ensure the success of the Red Ribbon Campaign; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California, jointly, That the California State Legislature does hereby support the Red Ribbon Campaign, and the proclamation of October 25–31, 1987, as "Red Ribbon Week," and encourages the citizens of California to participate in drug awareness activities, making a visible statement that we are strongly committed to live a healthy life; and be it further

Resolved, That the Legislature respectfully memorializes the President and the Congress of the United States to support the Red Ribbon Campaign and to proclaim October 25–31, 1987, as "Red Ribbon Week," and to encourage all citizens of the United States to participate in this drug awareness activity; 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 126

Assembly Joint Resolution No. 56—Relative to occupational safety and health.

[Filed with Secretary of State September 17, 1987]

WHEREAS, Section 4 of Article XIV of the California Constitution vests the Legislature with plenary power, unlimited by any provision of the Constitution, to create and enforce a complete system of workers' compensation by appropriate legislation, including full provision for securing safety in places of employment; and

WHEREAS, The federal Occupational Safety and Health Act of 1970 provided for federal jurisdiction over occupational safety and health issues covered by federal standards; and

WHEREAS, The federal Occupational Safety and Health Act of 1970 encourages states to assume responsibility for the development and enforcement of occupational safety and health standards on issues covered by federal standards by providing p to 50 percent funding of approved state plans; and

WHEREAS, The Legislature exercised its plenary authority by enacting Chapter 993 of the Statutes of 1973 (CAL-OSHA), for the express purpose of allowing California to assume responsibility for the development and enactment of occupational safety and health standards under an approved state plan; and

WHEREAS, The Governor, by letter dated February 6, 1987, purported to advise federal Secretary of Labor William Brock of California's withdrawal of its approved occupational safety and health plan, and the termination of the grant awarded to California, both effective June 30, 1987; and

WHEREAS, The Governor neither sought nor received the concurrence of the Legislature necessary for a decision to be made by California to withdraw its state occupational safety and health plan; and

WHEREAS, The federal Department of Labor refused to accept the Governor's purported voluntary withdrawal of the California state plan because the effect and finality of the Governor's action were under dispute in both the Legislature and the courts, and instead assumed responsibility for concurrent enforcement of federal occupational safety and health standards in private sector workplaces pending resolution of the administrative, legislative, and judicial issues within California; and

WHEREAS, The 1987–88 fiscal year budget provides sufficient funds for the Department of Industrial Relations to carry out its responsibilities under the law, including the enforcement of occupational safety and health standards in private sector workplaces; and

WHEREAS, The Governor has refused to carry out the statutory mandates to enforce occupational safety and health standards in private sector workplaces commencing July 1, 1987; and

WHEREAS, The legality of the Governor's refusal to enforce state occupational safety and health law in the private sector is the subject of litigation; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature, acting for the State of California, memorializes the Secretary of Labor to continue to refuse to accept the Governor's contention that he may voluntarily withdraw the California state plan, and not to initiate federal proceedings to withdraw the California state plan; and be it further

Resolved, That should the Secretary of Labor initiate proceedings to withdraw the California state plan, the Legislature hereby

requests a formal hearing to contest the withdrawal of the California plan; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Labor and the Assistant Secretary of Labor for Occupational Safety and Health for the United States Department of Labor, to each Senator and Representative from California in the Congress of the United States, and to the Governor of California.

RESOLUTION CHAPTER 127

Assembly Joint Resolution No. 57—Relative to tuna fishing.

[Filed with Secretary of State September 17, 1987]

WHEREAS, Seizure of United States fishing vessels, fishing within 200 miles of the coast of Mexico has previously resulted in an embargo on Mexican tuna products; and

WHEREAS, The embargo of 1980 on Mexican tuna products was lifted in the spirit of cooperation with our neighbor to promote the resurgence of the badly damaged tuna industry and to alleviate acrimony; and

WHEREAS, In February of 1987, the United States tuna vessel, the Laurie Ann, was boarded and seized by officials of the government of Mexico while engaged in a humantarian rescue of another boat in distress in rough water, and both boats were detained for over two weeks and released only after payment of a fine and forfeiture of the fishing nets on the Laurie Ann, which nets were recovered only after a substantial ransom was paid; and

WHEREAS, On September 2, 1987, the United States tuna vessel, the Mauritania, was seized 58 miles off the coast of Baja California, fined $30,000, and the cargo of 188 tons of fish with a value of approximately $188,000 and the fishing nets were confiscated, with a charge of $25,000 to buy back the nets and a charge of $17,000 for a license to fish within the 200-mile economic zone of Mexico; and

WHEREAS, The Mexican government is clearly not acting in good faith toward resolution of fishing rights off of the coasts of the the United States and Mexico for the mutual benefit of both countries; 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, the Secretary of State, and the Congress of the United States to reimpose an embargo on all tuna products of Mexican origin and to extend that embargo to include all Mexican fish products; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of

this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of State.

RESOLUTION CHAPTER 128

Assembly Concurrent Resolution No. 25—Relative to a Tourist Rest Area Information System.

[Filed with Secretary of State September 18, 1987]

WHEREAS, Many tourists visit California and many Californians tour our geographically diverse state annually; and

WHEREAS, The Office of Tourism seeks to provide timely and accurate information to California's visitors to enhance their stay; and

WHEREAS, Governmental agencies, local, state, and federal, wish to provide timely and relevant information to California visitors; and

WHEREAS, The Department of Transportation operates a world class roadway system enabling visitors to tour California by motor vehicle; and

WHEREAS, The department operates, as part of the state highway system, 90 safety roadside rest areas which have over 50 million users annually; and

WHEREAS, There is presently no cooperative joint private/public statewide tourist information system utilizing those areas; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation transmit a report to the Legislature within one year from the date of enactment of this resolution on the feasibility, benefits, and cost of a private/public jointly developed Statewide Tourist Rest Area Information System; and be it further

Resolved, That the report specifically study the use of private funds to support the installation and maintenance of any system providing tourist information at safety roadside rest areas; and be it further

Resolved, That the Department of Transportation, in cooperation with the Office of Tourism in the Department of Commerce, investigate, or cause to be investigated, the feasibility, cost, and benefits of utilizing the safety roadside rest areas for a Statewide Tourist Rest Area Information System as an aid to motorists in locating and gaining access to various services, facilities, and destinations; and be it further

Resolved, That the investigation include a description of the resources necessary to install and operate the system, assignment of

responsibilities to implement and operate the system, and who would benefit and to what extent; and be it further

Resolved, That if the study concludes that a system is feasible, then a pilotproject to test the study findings shall be constructed. The planning and development of the pilot project shall be done by the Department of Transportation in consultation with the Office of Tourism and the construction and operation of the pilot project shall be the responsibility of the private sector or others; and be it further

Resolved, That the Office of Tourism "Californias" marketing theme should be used to the fullest extent possible in any system providing tourist information at safety roadside rest areas; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Transportation and to the Director of the Office of Tourism in the Department of Commerce.

RESOLUTION CHAPTER 129

Assembly Concurrent Resolution No. 35—Relative to Sacramento freeway traffic.

[Filed with Secretary of State September 18, 1987]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is requested to cooperate with the Sacramento Area Council of Governments in its study of transportation problems in the Sacramento metropolitan area, including an examination of traffic congestion problems on State Highway Route 50, State Highway Route 80, and that segment designated as Business 80, using existing information and data already available from previous studies in assisting the council; and be it further

Resolved, That the Sacramento Area Council of Governments is requested to submit a report of its findings and recommendations on traffic congestion and transportation improvements in the Sacramento metropolitan area to the Legislature on or before January 1, 1989; and be it further

Resolved, That the Chief Clerk of the Assembly shall transmit a copy of this resolution to the Department of Transportation and the Sacramento Area Council of Governments.

RESOLUTION CHAPTER 130

Assembly Concurrent Resolution No. 65—Relative to self-esteem.

[Filed with Secretary of State September 18, 1987]

WHEREAS, The epidemics of violence, drug abuse, teen pregnancy, child abuse, chronic welfare dependency, and educational failure threaten to engulf our society, and it appears that self-esteem may be our best hope for a preventive vaccine to develop an immunity to these and other self-destructive behaviors; and

WHEREAS, In 1986 the Legislature passed and the Governor signed into law, AB 3659 (Chapter 1065, Statutes of 1986) creating the California Task Force to Promote Self-Esteem, and Personal and Social Responsibility; and

WHEREAS, California thereby again proves itself to be the leading state—the first to systematically and self-consciously seek to discover the key to unlock the secrets of healthy human development, so that we can get to the roots of, and develop effective solutions for, our major social problems; and

WHEREAS, This is a historic and hopeful effort by the State of California to develop for and provide to all Californians the latest knowledge and practices regarding the significance of self-esteem in our lives and in the lives of our children; and

WHEREAS, The California Task Force to Promote Self-Esteem, and Personal and Social Responsibility is firstly charged to compile the most credible, contemporary scientific research regarding whether (low/healthy) self-esteem is causally implicated in six major social problem areas:

(a) Crime and violence;
(b) Drug (including alcohol) abuse;
(c) Teen pregnancy;
(d) Child abuse;
(e) Chronic welfare dependency;
(f) Failure of children to learn up to their potential; and

WHEREAS, The task force is secondly charged to compile the most credible, contemporary scientific research regarding how healthy self-esteem is nurtured and developed, harmed, and rehabilitated; and

WHEREAS, The task force is thirdly charged to search out and compile a listing of the model programs in California which indicate encouraging levels of success with the development and the rehabilitation of healthy self-esteem; and

WHEREAS, The task force will otherwise seek to identify policies and programs which support the development of healthy self-esteem, and personal and social responsibility; and

WHEREAS, The task force will survey government and other public institutions, including government agencies, schools, and public assistance programs, to determine whether the manner in

which they treat people serves to dehumanize persons and adversely affect their healthy self-esteem; and

WHEREAS, Extensive state and nationwide media coverage has made the creation and mission of this Self-Esteem Task Force widely known so that our entire state and much of our nation are watching; and

WHEREAS, More than 1200 Californians, as well as numerous individuals and representatives of other states have come forward to state their endorsement of this task force and its mission; and

WHEREAS, The majority of those Californians who have come forward have also expressed interest in being personally involved with and serving as a resource for the task force; and

WHEREAS, The eventual success of the task force effort will depend upon the effective carrying out of its findings and recommendations into the heads and hearts, understanding and attitudes, and behaviors and practices of every individual Californian; and

WHEREAS, The people of California spend tens of billions of dollars annually through agencies created by legislative mandate for the purposes of the general welfare, education, and safety of its citizens; and

WHEREAS, These agencies of the state provide a wide spectrum of direct and indirect services to California citizens, impacting on virtually every citizen of the state; and

WHEREAS, These agencies have available important data, program information, statistics, outcome studies, and other appropriate information relevant to the goals and objectives of AB 3659 and the state task force; and

WHEREAS, These agencies carry out the policies and implement the programs funded through the Legislature and the Governor relative to the social problems listed herein; and

WHEREAS, The state task force requires and would benefit from the experience and knowledge of these agencies in carrying out the mission of AB 3659; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That each state agency having within its programmatic responsibility the resolution of the major social problems identified in this measure (i.e., crime and violence, alcoholism and drug abuse, child and spousal abuse, teenage pregnancy, chronic welfare dependency, and failure of children to learn to their potential), fully cooperate with the state task force and its mission; and be it further

Resolved, That these agencies include, but are not limited to the following:

(a) State Department of Education
(b) Office of Criminal Justice Planning
(c) Department of Consumer Affairs
(d) Department of Fair Employment and Housing
(e) Department of Aging

(f) State Department of Social Services
(g) State Department of Health Services
(h) Office of Statewide Health Planning and Development
(i) State Department of Developmental Services
(j) Department of Alcohol and Drug Programs
(k) Employment Development Department
(*l*) Department of Rehabilitation
(m) Department of Housing and Community Development
(n) Department of Finance
(o) California Postsecondary Education Commission
(p) Department of Justice
(q) Office of Attorney General
(r) Department of Mental Health
(s) Department of Corrections
(t) Department of the Youth Authority
(u) California Arts Council
(v) University of California
(w) California State University
(x) The Board of Governors of the California Community Colleges; and be it further

Resolved, That each of these agencies, through its executive officer or director, designate a liaison to the state task force; and be it further

Resolved, That each of these agencies provide to the state task force upon its request the information, data, program research and evaluation as may be helpful and appropriate in the mission of the state task force; and be it further

Resolved, That each of these agencies, through its designated liaison and through other means, inform the state task force of programs, initiatives, pilots, demonstration programs, and other efforts made by that agency in respect to the goals and objectives of AB 3659 and the state task force as appropriate, but at least annually on or before January 1st of each year; and be it further

Resolved, That each of these agencies provide recommendations for implementing the goals and objectives of AB 3659 within the agency on an annual basis on or before January 1st of each year, and to include in these recommendations priorities for funding and legislation relative to these goals and objectives; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the director or the chief administrative officer of each of the agencies identified.

RESOLUTION CHAPTER 131

Assembly Concurrent Resolution No. 80—Relative to the Kern Water Bank.

[Filed with Secretary of State September 18, 1987]

WHEREAS, The Kern County Groundwater Basin contains a large amount of available space for storage of additional water supplies, and the Department of Water Resources has proposed development of a conjunctive use program termed the Kern Water Bank; and

WHEREAS, In 1985, Senator Ayala authored SB 187, which authorized the Department of Water Resources to include in the State Water Project facilities south of the Sacramento-San Joaquin Delta for utilizing groundwater storage space determined by the Director of Water Resources to be feasible for providing yield for the State Water Project; and

WHEREAS, The Department of Water Resources has prepared an environmental impact report and a preliminary technical report showing that a direct recharge and extraction program in the area of the Kern River alluvial fan would be environmentally sound and cost-effective; and

WHEREAS, Additional water supplies could be stored in the basin by in-lieu recharge through delivery of State Water Project water supplies to lands now using local groundwater in exchange for a reduction in the pumping of groundwater on those lands; and

WHEREAS, In its report, entitled "Kern River Fan Element, Kern Water Bank," dated April 1987, the department has identified land on the Kern River alluvial fan which is ideally situated for conducting a ground water storage program; and

WHEREAS, The department and the Kern County Water Agency have executed a memorandum of understanding concerning the principles of operation of the Kern Water Bank and the key issues to address in negotiating a contract for management of the program; and

WHEREAS, SCR 92, adopted September 10, 1986, requested the department to report to the water policy committees of the Legislature on the progress of investigations on its groundwater programs and hearings were held on the Kern Water Bank in the Senate Agriculture and Water Committee on May 26, 1987, and in the Assembly Water, Parks and Wildlife Committee on June 3, 1987; and

WHEREAS, The proposed Kern Water Bank is supported by local interests in Kern County, the State Water Contractors, and various environmental interests; now ,therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Water Resources is requested to proceed with implementation of a program for direct recharge of State Water Project water supplies in the Kern River alluvial fan area through completing additional technical studies, acquiring lands deemed appropriate by the director for the program as outlined in its technical report, negotiating a contract with the Kern County Water Agency concerning the operation of the program, negotiating any necessary amendments to State Water Project contracts, and constructing facilities necessary for the

program; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Water Resources.

RESOLUTION CHAPTER 132

Assembly Concurrent Resolution No. 81—Relative to legislative employees' compensation.

[Filed with Secretary of State September 18, 1987]

WHEREAS, Section 9200 of the Government Code authorizes each employee of the Legislature to elect to receive one or more employee benefits, as prescribed by concurrent resolution, in lieu of a portion of the compensation provided to the employee; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the employee benefits referred to in Section 9200 of the Government Code shall mean all of the following:

(1) The employee contribution towards the cost of the premium for any health or dental plan selected by the employee.

(2) The payment for authorized dependent care.

(3) The employee contribution towards the payment of the premium for any policy of accident insurance selected by the employee for personal injury or sickness to the employee.

(4) The payment of the premium for a group term life insurance policy not to exceed fifty thousand dollars ($50,000), as selected by the Committee on Rules of each house.

(5) The payment of the cost of any other benefit which may be provided pursuant to federal and state law; and be it further

Resolved, That the administration of the salary reduction plan authorized in Section 9200 shall be in compliance with the Employee Retirement Income Security Act of 1974; and be it further

Resolved, That the Committee on Rules of each house may provide for the manner and form by which an employee may elect to have the above-described payments made in lieu of a portion of his or her monthly compensation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Committee on Rules of each house.

RESOLUTION CHAPTER 133

Assembly Concurrent Resolution No. 88—Relative to Recycling Week.

[Filed with Secretary of State September 18, 1987]

WHEREAS, In 1986 the Legislature enacted the California Beverage Container Recycling and Litter Reduction Act (Division 12.1 (commencing with Section 14500) of the Public Resources Code) with the goal of increasing recycling and reducing litter in the state; and

WHEREAS, The act is the first of its kind in the nation, and recycling centers will open statewide for consumers to redeem their aluminum, plastic, glass, and nonaluminum metal beverage containers; and

WHEREAS, In an attempt to make recycling easier for consumers, convenience zones will be established within one-half mile of every major supermarket; and

WHEREAS, Beginning October 1, 1987, consumers may return their marked beverage containers to certified recyclers and be paid a redemption value for each container; and

WHEREAS, The act has a goal of recycling 80 percent of beverage containers, but if a 65-percent rate is not reached for any specific type of container by January 1, 1990, the redemption value will increase to two cents, and will increase to three cents on January 1, 1993; and

WHEREAS, Beginning September 1, 1987, beverage distributors are required to pay the Department of Conservation one cent for each beverage container sold in California for deposit in the California Beverage Container Recycling Fund; and

WHEREAS, The unredeemed portion of the California Beverage Container Recycling Fund will be used to provide incentives for recycling centers to serve unserved areas, recycling bonuses for consumers, litter and recycling grants for community conservation corps programs, public education and promotion, and administrative costs; and

WHEREAS, The act provides incentives for nonprofit organizations and curbside pickup programs operated by public agencies; 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 October 5 to 9, 1987, as Recycling Week and urges all Californians to participate in recycling beverage containers and experience the new convenience of recycling beverage containers in California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, and to the Department of Conservation for distribution to appropriate agencies and representatives in the private sector.

RESOLUTION CHAPTER 134

Assembly Concurrent Resolution No. 89—Relative to the Joint Select Task Force on the Changing Family.

[Filed with Secretary of State September 18, 1987]

WHEREAS, The family is the moral core of our society and the ability of the family to fulfill its roles and obligations is critical to the well-being of California's citizenry and economy; and

WHEREAS, Healthy family relations are of central importance to both the ability of adults to make productive contributions to society and to the emotional and intellectual development of children; and

WHEREAS, Major structural transformations are permanently changing the family as we have known it, for example:

(a) In 80 percent of all families, both parents are working; less than 10 percent of all families fit the traditional mom-at-home and dad-at-work image.

(b) Today, nearly half of the labor force is female and married women with young children comprise the majority of all new labor force participants; by the year 2000, three-fourths of all school-aged children, and two-thirds of all children under five will have working mothers.

(c) The number of single-parent families has jumped to 16 percent of all families and one in four children lives with a single parent; half of all single parent households live below the poverty level.

(d) Fifty percent of all marriages end in divorce; California has the second highest teenage pregnancy rate in the nation; and

WHEREAS, Family economics are dramatically influenced by a labor market converting from a manufacturing to a service and information economy as evidenced by:

(a) Real family income has declined 8.3 percent since 1973; service sector workers make half the salary of workers in manufacturing.

(b) The Congressional Joint Economic Committee reported in December that 60 percent of all the jobs created between 1979 and 1984 paid less than $7,000 a year, while the number of jobs paying more than $28,000 declined.

(c) The number of people involuntarily working part-time with no benefits has increased 60 percent since 1979; 28 percent of part-time workers earn the minimum wage.

(d) A middle-income homeowner spends 44 percent of his or her income on mortgage costs as compared to 14 percent in 1949; and

WHEREAS, Demographic shifts have occurred in California's family composition and these trends must be addressed by the public and private sectors:

(a) Between 1980 and the year 2000, the under 18 population will increase by 1.4 million children, reaching 7.9 million; the magnitude

of this increase and the corresponding need to care and educate these children is greater than anything California has faced since the 1946 baby boom.

(b) By the year 2000, the majority of working adults will be Hispanics, Asians, or Blacks, while the majority of those over age 65 will be non-Hispanic whites; immigration has and will continue to make California a rapidly growing multicultural state.

(c) Californians are living longer; the years of life after retirement are likely to equal or surpass the number of years of childhood and schooling; between 1985 and the year 2000, there will be an 80-percent increase in the number of those age 85 and over placing new challenges on our medical and long-term care systems; and

WHEREAS, Massive socioeconomic changes have taken place in our society, redefining the concept of the family and the composition of the labor force, and a comprehensive family policy would strengthen the foundation of California's families and the competitiveness of its economy; and

WHEREAS, California's institutions—from the workplace to the schools—have not fully recognized or responded to the fundamental transformations that have occurred allowing for potential family crises rather than planned opportunity by the year 2000; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature establish a Joint Select Task Force on the Changing Family. This task force shall:

(a) Report to the Legislature and the public on California's changing family into the year 2000, specifically reviewing current social, economic, and demographic trends and assessing their socioeconomic implications for the family.

(b) Define the basic tenets of a comprehensive California family policy, and report to the Legislature on national, state, and local programs that address the socioeconomic trends impacting on family stability.

(c) Develop legislative recommendations that incorporate the policy issues reviewed and researched by this task force which are to be submitted in part to the Legislature in draft form by February 1, 1988, for the 1987–88 Regular Legislative Session and the remainder submitted to the Legislature in draft form by September 1, 1988, for the 1989–90 Regular Legislative Session.

(d) Recommend to the Legislature methods for evaluating the impact of program and policy development on family stability using basic family functions as the baseline criteria. These family functions should include, but not be limited to, primary need fulfillment such as food, shelter, and safety; nurturance, the imbuing of values and ethics; motivation for education and employment preparation; and the provision of safety and rest for all family members; and be it further

Resolved, That the task force shall consist of 26 members that represent both the diversity of California's family demographic

profile and the geographic balance of the state; and be it further

Resolved, That the Speaker of the Assembly and the Senate Rules Committee shall each appoint three legislators and 10 public appointees. The public appointees shall have expertise in areas of family work policy, family economics, or family demographic trends. They shall include, but not be limited to, community leaders in economics, employment development, education, religion, business, sociology, social and support services, parenting, and family programs; and be it further

Resolved, That the Speaker of the Assembly and the Senate Rules Committee shall each designate a Cochairperson of the Joint Select Task Force on the Changing Family. The task force shall hold its first meeting within 45 days of the date on which this resolution takes effect and shall meet on at least a monthly basis. In the event of a vacancy, the original appointing authority shall appoint a replacement; and be it further

Resolved, That the task force shall submit a report to the Legislature with its findings on the social, demographic, and economic trends impacting on California's families and comprehensive legislative recommendations to address these structural changes by September 1, 1988; and be it further

Resolved, That the task force shall terminate on November 30, 1988; and be it further

Resolved, That the Assembly Committee on Rules and the Senate Committee on Rules shall allocate funds, in equal amounts, as they deem appropriate, from the contingent funds of the respective houses for the support of the Joint Select Task Force on the Changing Family; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Speaker of the Assembly and the Chairperson of the Senate Committee on Rules.

RESOLUTION CHAPTER 135

Assembly Concurrent Resolution No. 91—Relative to AIDS Awareness Month.

[Filed with Secretary of State September 18, 1987]

WHEREAS, Aquired Immune Deficiency Syndrome has been the cause of death for 22,747 Americans to date; and

WHEREAS, The National Academy of Sciences estimates 1,500,000 Americans currently carry the HIV virus and will eventually develop full blown AIDS; and

WHEREAS, There is no known cure for AIDS; and

WHEREAS, Prevention of contracting the virus is the only means known to stop the spread of this disease; and

WHEREAS, The federal government has declared October, 1987, as National AIDS Awareness Month; now, therefore, be it

Resolved, That the Legislature declares October, 1987, as California AIDS Awareness Month; and be it further

Resolved, That the Governor is hereby requested to proclaim October, 1987, as California AIDS Awareness Month; and be it further

Resolved, That the Chief Clerk of the Assembly submit a copy of this resolution to the Governor.

RESOLUTION CHAPTER 136

Assembly Joint Resolution No. 49—Relative to Taiwanese poultry import restrictions.

[Filed with Secretary of State September 18, 1987]

WHEREAS, Taiwan exports more products to California than any nation other than Japan; and

WHEREAS, In 1986, California's $1.7 billion in exports were overwhelmed by $7.8 billion worth of Taiwanese imports; and

WHEREAS, High tariffs present a major barrier to imports to Taiwan, with tariffs ranging from 40 to 75 percent in addition to a 4 percent "harbor tax" on imports; and

WHEREAS, In 1982 Taiwan placed an official import ban on chicken meat, and while this ban was lifted in 1985, import applications must still be approved by the Taiwan Council of Agriculture; and

WHEREAS, Approval from the Council of Agriculture has never been granted; and

WHEREAS, While the Taiwan Customs Bureau has ruled that processed chicken meets the definition of prepared food products and is allowed entry at the current 45 percent tariff, the Taiwan Feed and Grain Association, Poultry Association, Veterinary Products, and other poultry related groups have threatened to reduce imports of United States grain and feed and ban all imports of chicken meat, regardless of how it is prepared; and

WHEREAS, The introduction of fast food chains and modern supermarkets in Taiwan has increased the demand for chicken by at least 30 percent, and is expected to double by the end of the year, creating a natural export market for California poultry exports; and

WHEREAS, Five main chicken breeder farms in Taiwan which control the chicken market have hampered growth by maintaining very high prices by alleged market manipulation and a protectionist ban on imported chicken meat; and

WHEREAS, Even with the 45 percent import tariff imposed by Taiwan on chicken imports, California chicken would still be

competitively priced in Taiwan if the import ban was lifted; and

WHEREAS, Because Taiwan is not part of the General Agreement of Tariffs and Trade (GATT) negotiations, all formal trade negotiations between Taiwan and the United States are conducted by the American Institute in Taiwan with Taiwan's Coordinating Council for North American Affairs; and

WHEREAS, The American Institute in Taiwan has made the lifting of the ban on chicken imports a top priority of discussion with Taiwan; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the President of the United States, the Congress of the United States, and the United States Trade Representative are respectfully requested to urge Taiwan to lift its ban on imported chicken parts; and be it further

Resolved, That the Governor and the Director of the Asian Trade and Investment Office in Tokyo are respectfully requested to urge Taiwan to lift their ban on imported chicken parts and reduce excessive tariffs and duties, and to formally support the American Institute in Taiwan in their efforts to accomplish the same goal; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the United States Trade Representative, to the Taiwan representative of the Coordinating Council for North American Affairs, to the Governor, to the Director of the Asian Trade, to the Investment Office in Tokyo, to members of the California State World Trade Commission, to the Director of the California Department of Food and Agriculture, and to the Director of the American Institute in Taiwan.

RESOLUTION CHAPTER 137

Assembly Joint Resolution No. 50—Relative to Salvadoran death squads.

[Filed with Secretary of State September 18, 1987]

WHEREAS, On July 7, 1987, a politically active Salvadoran woman was kidnapped at knife point by two Salvadoran men outside the Los Angeles office of the Committee in Solidarity with the People of El Salvador, forced into a car, and for six hours was brutally tortured, burned, interrogated, and raped; and

WHEREAS, On July 17, 1987, Rev. Luis Olivarez, Pastor of Los Angeles' largest Latino parish, Lady Queen of the Angels, disclosed that he had received a death threat in the form of a letter marked "E.M." — the initial of El Salvador's Escuadron de Muerte (the Squadron of Death); and

WHEREAS, The reported kidnapping of a Guatemalan woman on July 17, 1987, is being investigated in connection with these earlier threats and abduction; and

WHEREAS, On July 10, 1987, a Salvadoran woman refugee who had been kidnapped and tortured in El Salvador in 1979 received a death squad-style threat in her Los Angeles mailbox that also threatened 18 other refugees warning that although they escaped in El Salvador, they would not in America; and

WHEREAS, Other members of the refugee community, in both Los Angeles and San Francisco, have reported being followed, having their cars broken into, and receiving threats by telephone; and

WHEREAS, These incidents, combined with recent vandalizing of cars of other politically active Salvadorans have raised fears in the refugee community that death squad-type groups are conducting a kind of psychological warfare aimed at terrifying refugees into halting their political activities; and

WHEREAS, The Federal Bureau of Investigation has announced in its statement that it is opening an investigation into the possibility of terrorist activity by Salvadoran death squads in Los Angeles; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the California Legislature condemns the ongoing terror campaign against Central American refugees in Los Angeles and San Francisco and expresses its support for the refugee community; and be it further

Resolved, That the California Legislature declares its support for the United States Congressional subcommittee inquiry into the death squad's activities and, in doing so, urges the inquiry to send a clear message to those who would import terrorism to the United States that this violence will not be tolerated; and be it further

Resolved, That the Legislature respectfully requests Los Angeles Mayor Tom Bradley, San Francisco Mayor Dianne Feinstein, and the Federal Bureau of Investigation to take action to accomplish the intent of this measure; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of the Federal Bureau of Investigation, Los Angeles Mayor Tom Bradley, San Francisco Mayor Dianne Feinstein, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 138

Assembly Joint Resolution No. 51—Relative to contracts with Toshiba Corporation of Japan and Kongsberg Vaapenfabrikk.

[Filed with Secretary of State September 18, 1987.]

WHEREAS, In the face of a huge deficit, the United States spends millions for Toshiba products; and

WHEREAS, California is also a major purchaser of Toshiba products, including personal computers, medical equipment, and office copiers; and

WHEREAS, Toshiba Machine Company, Ltd., a subsidiary of Toshiba Corporation of Japan, and Kongsberg Vaapenfabrikk, a state-owned company of Norway, put profit before principle by secretly peddling defense technology to the Soviet Union; and

WHEREAS, Between 1981 and 1985, Toshiba and Kongsberg conspired to sell eight metalworking machines and specialized computers to the Soviets to construct superquiet submarine propellers which are 10 times quieter than before, and therefore undetectable by undersea listening devices; and

WHEREAS, These illegal sales were not only in direct violation of Regulation IL 1091 of the Allied Coordinating Committee for export controls, which includes most members of the North Atlantic Treaty Organization and Japan, but represent one of the worst losses of high-technology equipment to the Soviet Union in a decade; and

WHEREAS, The new superquiet Soviet submarines, the Akula and Sierra Hunter-killers, are now capable of coming within a 10-minute missile firing range of American shores, placing the people of the State of California, our country, and our allies in peril; and

WHEREAS, Far from being the unwitting dupes of a KGB plot, Toshiba and Kongsberg were the perpetrators, purposely falsifying their export license applications to indicate that the machines were legal; and

WHEREAS, The Japanese and Norwegian authorities gave these false license applications minimal scrutiny, without attempting to determine the true capabilities of the equipment listed on the export control applications, or checking the shipments to determine if they actually contained the models listed on the erroneous export license; and

WHEREAS, Japanese and Norwegian authorities have made a limited effort to punish the perpetrators, with both countries invoking their statutes of limitations to foreclose the possibility of serious prosecution; and

WHEREAS, The response by Japan and Norway was wholly inadequate to act as a deterrent against further national security breaches; and

WHEREAS, While Toshiba and Kongsberg made $17 million on their covert sale to the Soviets, it is estimated that it will cost American taxpayers billions to respond with countertechnology; and

WHEREAS, The citizens of California must join with the United States government in expressing our strongest objection to placing our citizens in jeopardy; and

WHEREAS, One of the best ways to deter future breaches of

national security would be the curtailment of business relationships between the United States and the State of California with Toshiba, Kongsberg, or any other business or organization which practices international treason for profit; now, therefore be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectively memorializes the President of the United States, the Congress of the United States, and the Department of Defense to support legislation aimed at punishing Toshiba and Kongsberg; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of Defense, to the United States Trade Representative, to the Governor of the State of California, to the Director of the Asian Trade and Investment Office in Tokyo, and to the secretary or director of every California state agency and department.

RESOLUTION CHAPTER 139

Assembly Joint Resolution No. 55—Relative to Indian health care services.

[Filed with Secretary of State September 18, 1987]

WHEREAS, There presently reside in California more than 200,000 Native Americans, also known as Indians, of whom approximately 75,000 are in rural areas; and

WHEREAS, The health needs of California Native Americans are documented to be the most critically acute of any population; and

WHEREAS, The vast majority of these Native Americans receive most of their health care services through federal government funding, particularly the Department of Health and Human Services operating through the Indian Health Service; and

WHEREAS, The Department of Health and Human Services has announced its intention to publish a regulation imminently that redefines who is an Indian for purposes of eligibility to receive federally funded health services through the Indian Health Service; and

WHEREAS, This new definition narrows who is an Indian to those who are (1) members of a federally recognized Indian tribe, and (2) reside within a designated health service delivery area, a geographic area determined by the Indian Health Service; and

WHEREAS, Current federal and state law defines who is an Indian eligible for federal health services through the Indian Health Service as those persons of Indian descent who are regarded as Indian by the community in which they live and who reside on or near an Indian reservation (Section 36.12 of Title 42 of the Code of Federal

Regulations); and

WHEREAS, The vice of the new definition by the Department of Health and Human Services limiting "Indians" to "members of federally recognized tribes" is that most Native Americans indigenous to California are not members of federally recognized tribes because these are tribes having treaties with the United States, and many treaties with California Indians were never ratified in 1850 because of the discovery of gold and the United States Senate's reluctance to cede land to California Indians that might contain valuable gold deposits; and

WHEREAS, The impact of the regulation redefining Indian to "members of federally recognized tribes" is to deprive more than half of California's Native American population, and two-thirds of the rural Native Americans in this state, of critically needed health services or shift an exorbitant burden to meet these needs upon the state and local governments; and

WHEREAS, It would be a grave injustice to California Indians and an unfair burden on California for the federal government to adopt a new definition of Indian for health care purposes that ignores the federal government's historical role in depriving them of "federally recognized" tribal status; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California urge the Secretary of Health and Human Services to not publish, or to rescind if published, the regulation that limits the eligibility of Indians for critically needed health care services to those who are members of federally recognized tribes; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation that will define "Indian" for the purposes of eligibility to receive federal health care benefits in a manner consistent with current regulatory practice and sensitive to the historical anomaly of California Native Americans who do not have federally recognized tribal status; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Health and Human Services.

RESOLUTION CHAPTER 140

Senate Joint Resolution No. 7—Relative to foster care.

[Filed with Secretary of State September 18, 1987]

WHEREAS, Federal matching funds for foster care is available for the cost of care of children who have been removed from their homes and placed in foster care as the result of a judicial determination that continuing to live in that home would be contrary to the welfare of the child; and

WHEREAS, In some teenage foster care cases, the foster child is herself the parent of an infant child who lives in the same foster family home or foster care institution, but because of the requirement that a child must have been removed from their home and placed in foster care away from their parent, the infant child of a teenager in foster care is not eligible for federally assisted Aid to Families with Dependent Children-Foster Care (AFDC-FC), even though the care of the infant may be primarily the responsibility of the foster care provider; and

WHEREAS, These children of foster care children may be eligible as a child-only AFDC unit, but, the AFDC family rate for a child-only unit is usually much less than the cost of foster care, especially in the cases where a foster care institution has a specialized program for foster care teenagers and their infants; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to amend Title IV-E of the Social Security Act to make children of foster care recipients eligible for AFDC-FC matching funds and to require states to include in a foster care payment the cost of care provided to the child of a girl in foster care along with the cost of care provided to the foster child herself when they are living in the same foster care home or foster care institution; 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 141

Senate Joint Resolution No. 19—Relative to oil and gas royalties.

[Filed with Secretary of State September 18, 1987.]

WHEREAS, According to the General Accounting Office, serious deficiencies in the system for collection of oil and gas royalties by the Department of the Interior that were identified over 20 years ago persist today; and

WHEREAS, According to a report issued by the House Appropriations Subcommittee on the Interior, the federal

government may be failing to collect as much as one billion dollars ($1,000,000,000) a year in oil and gas royalties; and

WHEREAS, Since states receive half the royalties earned from public lands within their borders, the states have a vital interest in ensuring that the federal government collects all royalties due; and

WHEREAS, Proposed regulations of the Department of the Interior, if implemented, would unreasonably require states to rebate millions of dollars to oil and gas companies for royalties collected since 1982; and

WHEREAS, The Department of the Interior has consistently failed to forward royalty payments to the states in a timely manner and has failed to comply with the Federal Oil and Gas Royalty Management Act passed by Congress in 1982, which requires the department to disperse royalties within 30 days of receipt; and

WHEREAS, The Department of the Interior has wasted large sums of the taxpayers' moneys in attempting to develop new computer systems to efficiently manage the collection of royalties, but has so far utterly failed to develop a workable system; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States and the Secretary of the Interior to ensure that oil and gas royalties are efficiently collected by the federal government and disbursed to the states in accordance with federal law; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 142

Senate Joint Resolution No. 24—Relative to the 13th anniversary of the Turkish invasion of Cyprus.

[Filed with Secretary of State September 18, 1987]

WHEREAS, Thirteen years have passed since the Turkish invasion and the Cyprus problem remains unsolved; and

WHEREAS, The humanitarian crisis involving 200,000 refugees grows increasingly more desperate; and

WHEREAS, As a result of the Turkish invasion, 1,619 persons, including eight Americans, are still missing and unaccounted for; and

WHEREAS, The Republic of Cyprus has rendered substantive assistance to the United States in recent years in the region; and

WHEREAS, Turkey, by the illegal use of United States supplied

arms, has attacked, seized, and continues to occupy 38 percent of the territory of the Republic of Cyprus; and

WHEREAS, Turkey has recently increased its troops on Cyprus to 35,000, its colonizers to 60,000, and its tanks to 400, and has illegally upgraded its arms on the island by United States weapons supplied for NATO defense; and

WHEREAS, Turkey continues its long-standing policy of suppression of its ethnic minorities, depriving them of their right to freely practice their religions and to maintain their languages, distinctive cultures and basic human needs, particularly those of the Armenian survivors of the 1915 unconfessed genocide, the Kurds, and the Greeks; and

WHEREAS, Turkey is currently the recipient of financial and military assistance approaching $1 billion per annum; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California urges the President and Congress of the United States to:

(1) Assist the United Nations Secretary General in finding a solution to the Cyprus problem based on the charter and the relevant resolutions of the United Nations, with international guarantees for the unity, sovereignty, and independence of the Republic of Cyprus.

(2) Stop subsidizing through its aid to Turkey the illegal occupation of Cyprus until a mutually acceptable solution is found.

(3) Exert, moreover, their best efforts with Turkey to effectuate, prior to a final agreement, the return of the FAMAGUSTA-VAROSHA and MORPHOU regions under Greek Cypriot control, the removal of the 35,000 Turkish occupation troops and 60,000 colonizers from the island and to restore to the people of Cyprus majority rule with minority rights guaranteed, the freedom of movement, the freedom of settlement, and the right to own property anywhere in the republic; and be it further

Resolved, That the members urge the President and the Congress of the United States to continue the generous support to the Cypriot refugees; and be it further

Resolved, That the members urge the President and the Congress of United States to enforce the provisions of the Military Sales Act by recalling all United States supplied arms from the occupied part of Cyprus; and be it further

Resolved, That the members urge the President to stop any further assistance to Turkey until the 1,619 persons missing, particularly the eight Americans, are accounted for; and be it further

Resolved, That the members urge the President and the Congress of the United States to review the current policies of Turkey regarding its treatment of the ethnic and religious minorities residing in Turkey, in the light of President Reagan's repeated expressions of concern for human rights; and be it further

Resolved, That the Secretary of the Senate transmit copies of the resolution to the President and Vice President of the United States,

to the Speaker of the House of Representatives, to the Secretary of State, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 143

Senate Joint Resolution No. 28—Relative to recommending that Everett Alvarez, Jr. receive the Presidential Medal of Freedom.

[Filed with Secretary of State September 18, 1987]

WHEREAS, Everett Alvarez, Jr., who is currently the Vice President for Government Services of the Hospital Corporation of America, was the first American aviator shot down over North Vietnam; and

WHEREAS, Born in Salinas on December 23, 1937, Mr. Alvarez is the holder of a bachelor's degree in electrical engineering, a masters' degree in operations research and systems analysis, and a juris doctorate degree, and he is also a member of the District of Columbia Bar; and

WHEREAS, Mr. Alvarez joined the United States Navy in 1960, was taken prisoner of war on August 5, 1964, and was held in North Vietnam until North Vietnam's general release of prisoners of war on February 12, 1973; and

WHEREAS, After release from his eight and one-half years of imprisonment, Mr. Alvarez served in program management at the Naval Air System Command in Washington, D.C. until his retirement from the Navy in 1980; and

WHEREAS, During his two decades in uniform, Mr. Alvarez earned the Silver Star, two Legions of Merit (with combat "V"), two Bronze Stars (with combat "V"), the Distinguished Flying Cross, and two Purple Hearts; and

WHEREAS, In 1981, he was appointed Deputy Director of the Peace Corps, and in 1982 he was appointed Deputy Administrator of Veterans Affairs, a position in which he served until 1986; and

WHEREAS, Mr. Alvarez has received the Alumnus of Distinction award and an honorary doctorate from the University of Santa Clara, and he has received numerous other honors, including the naming of a new high school in Salinas in his honor; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California, in recognition of the heroism and outstanding accomplishments of Everett Alvarez, Jr., hereby respectfully recommends that the President of the United States present Mr. Alvarez with the Presidential Medal of Freedom; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the United States and to Everett Alvarez, Jr.

RESOLUTION CHAPTER 144

Senate Joint Resolution No. 26—Relative to federal gasoline taxes.

[Filed with Secretary of State September 18, 1987]

WHEREAS, Gasoline taxes have traditionally been treated as user fees dedicated to transportation improvements; and

WHEREAS, Transportation programs have not contributed to the federal debt because the Federal Highway Trust Fund is required to have revenues sufficient to balance expenditures from it; and

WHEREAS, An increase in the gasoline tax for nontransportation purposes would be an unwarranted diversion of a traditional source of revenue for transportation and would seriously undermine the ability of states to raise funds for improvements to their roads and for transportation programs; and

WHEREAS, A federal gasoline tax increase for deficit reduction would increase consumer prices and place an undue burden on lower income persons and those especially dependent on private vehicles for transportation; and

WHEREAS, A nontransportation federal gasoline tax increase would have a negative effect on employment, income tax revenues, and the personal savings rate; and

WHEREAS, A federal gasoline tax increase would create regional and geographic inequities which would place a greater burden on western and nonurban areas where motorists must travel greater distances between their homes, businesses, and workplaces; and

WHEREAS, Any increase in the federal gasoline tax should be used to fund existing and growing transportation infrastructure needs; 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 not to use or increase the federal excise tax on gasoline to reduce the federal budget deficit; 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 145

Senate Concurrent Resolution No. 30—Relative to the Task Force on Financial Planning Regulations.

[Filed with Secretary of State September 18, 1987]

WHEREAS, Opportunities for financial investing by Californians with various income levels have increased substantially in recent years; and

WHEREAS, Sound and prudent selection among these many new opportunities, as a means of planning ones' financial future, can significantly enhance ones' economic security and well being; and

WHEREAS, Many of these investment opportunities pose difficult and highly technical issues, particularly in comparing investment opportunities and in integrating various investment opportunities into a beneficial individual financial plan; and

WHEREAS, Californians increasingly are seeking expert assistance in designing their financial plans, resulting in Americans spending up to $400 billion a year on financial services; and

WHEREAS, There exists a wide range of expertise and competence among those to whom many Californians are turning for financial planning assistance; and

WHEREAS, The Legislature desires that individuals be given adequate information regarding the qualifications of those persons offering expert advice as well as adequate information regarding the financial plans and products being recommended; and

WHEREAS, These financial experts, known as financial planners, engage in multiple professions and businesses and offer a variety of types of financial services which may be related to or be part of their financial planning activities; and

WHEREAS, Conservative estimates place the number of individuals calling themselves financial planners, or similar names, at over 20,000; and

WHEREAS, There has been within California over the past several years a dramatic increase in the number of professionals calling themselves financial planners, which in many instances may be based more upon the individual's desire to attract new clients than a reflection of expertise; and

WHEREAS, Existing California law regulates financial planners as investment advisors, when investment advice is given, but does not regulate as financial planners individuals not giving investment advice in the course and scope of their work for clients, but who nonetheless call themselves financial planners; and

WHEREAS, An ever-increasing number of existing professionals, such as accountants, bankers, lawyers, insurers, realtors, stockbrokers, and tax preparers, have all expanded their businesses to include the provision of personal financial planning with no uniform consumer protections or guidelines; and

WHEREAS, The California Legislature during its 1985–86 Regular Session acted in recognition of the need to protect consumers of financial planning services by passing Senate Bill No. 315, a bill which required everyone offering financial planning services to fully disclose professional expertise, training, potential conflicts of interest, and methods of remuneration, among other requirements; and

WHEREAS, The Governor vetoed Senate Bill No. 315, explaining that he believed the legislation would have given consumers a false sense of state protection; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature remains concerned about the adequate protection of individuals seeking financial advice from those offering financial planning services and believes current California law does not clearly provide this protection; and be it further

Resolved, That the Legislature desires that those parties affected by legislation regulating financial planning services and financial planners, including financial planners, investment advisors, stockbrokers, insurers, lawyers, accountants, tax preparers, realtors, bankers, the administration, and consumers, study and propose ways in which the Legislature and the Governor can act to bring these protections to California's consumers; and be it further

Resolved, That there is hereby created the Task Force on Financial Planning Regulations, which shall be convened and meet as necessary and report back to the Legislature and the Governor on or before January 15, 1988, with a proposal to regulate financial planners and their services within California and thus protect consumers, either by additional coordination of existing state law and regulation, or through additional legislation and regulation; and be it further

Resolved, That the Task Force on Financial Planning Regulations shall be dissolved once the report is received by the Legislature and the Governor; and be it further

Resolved, (a) That the Task Force on Financial Planning Regulations shall be comprised of members as follows:

(1) Two members recommended by the Consumers Union of California.

(2) One member recommended by the State Bar of California preferably from either the Bar's Section on Estate Planning or the Section on Taxation.

(3) One member recommended by the California Society of Certified Public Accountants.

(4) One member recommended by the American Association of Personal Financial Planners.

(5) One member recommended by the California Bankers Association.

(6) One member recommended by the California League of Savings Institutions.

(7) One member recommended by the California Credit Union League.

(8) One member recommended by the Association of California Life Insurance Companies.

(9) One member recommended by the California Association of Life Insurance Underwriters.

(10) One member recommended by the California Society of Enrolled Agents.

(11) One member representing broker-dealer firms with less than 500 registered representatives within California recommended by the Business Conduct Committee of the National Association of Security Dealers, District II.

(12) One member representing broker-dealer firms with more than 500 registered representatives whose principle office is within California recommended by the Board of Governors of the National Association of Security Dealers.

(13) Two members representing broker-dealer firms with more than 500 registered representatives nationwide, with one recommended by the Board of Governors of the National Association of Security Dealers and the other recommended by IDS Financial Services, Inc.

(14) Two members recommended by the Institute of Certified Financial Planners.

(15) Two members recommended by the California Association for Financial Planning.

(16) One member representing Investment Advisors recommended by the Investment Company Institute.

(17) Two members representing educators in financial planning, one recommended by a private California institute of higher education affiliated with the College for Financial Planning, and one recommended by a public California institute of higher education affiliated with the College for Financial Planning.

(18) One member recommended by the Governor.

(19) One member appointed by the Senate Rules Committee representing the State Senate.

(20) One member appointed by the Speaker of the Assembly representing the State Assembly.

(21) One member recommended by the Commissioner of Corporations.

(22) One member recommended by the Real Estate Commissioner.

(23) One member recommended by the Insurance Commissioner.

(24) Two public members appointed by the Senate Rules Committee.

(25) Two public members appointed by the Speaker of the Assembly.

For the purposes of this subdivision, "public member" means an individual who is not engaged in any profession or occupation which

includes within the scope of practice of the profession or occupation the provision of financial advice to individuals or entities for compensation, and who is not in the employ of, or holding any official or familial relation to, any corporation or person who is engaged in any profession or occupation which includes the provision of financial advice to individuals or entities for compensation.

(26) One member recommended by the California Financial Services Association.

(27) One member recommended by the Society of CPA/Financial Planners.

(b) Recommendations for appointment shall be made to the Senate Rules Committee by September 11, 1987, and if not made by that date, the Senate Rules Committee shall, on its own without recommendation, make the respective appointments.

(c) That the Task Force on Financial Planning Regulations shall be chaired by the author of this resolution, and shall organize itself as deemed appropriate by the members.

(d) That members shall participate at their own expense and all other costs borne by the task force shall be paid for by the Senate Rules Committee, as it deems necessary.

(e) That staff for the task force shall be made available by the Senate Office of Research.

RESOLUTION CHAPTER 146

Senate Concurrent Resolution No. 43—Relative to the state's Hispanic population.

[Filed with Secretary of State September 18, 1987.]

WHEREAS, There is in California a large and growing population of persons of Hispanic origin; and

WHEREAS, It is estimated that within the next 40 years, this group will comprise the largest single element of the state's population and currently is the state's largest minority population; and

WHEREAS, A substantial proportion of this population has a common heritage, with strong cultural and ethnic identities that are shared with the people of Mexico and other Latin American countries, presenting a unique opportunity for cooperative efforts to address the pressing concerns of our Latin American neighbors as they relate to California's problems as a whole; and

WHEREAS, California's history and development have relied heavily upon the contributions of its Hispanic population, helping to create a rich cultural heritage, prospering economy, and social environment admired around the world; and

WHEREAS, Current statistics demonstrate that large segments of the Hispanic population have not benefited fully from California's

advances, a fact that is reflected in high levels of poverty and low economic opportunity, low levels of political participation, substantial underrepresentation in government at all levels, high academic dropout rates, high concentration of limited-English-speaking and writing ability, and pervasive discrimination in numerous aspects of everyday life, indicating that the enormous resources available to the state have not been adequately utilized to plan, strategize, and provide direction or develop resources designed to overcome the obstacles to full participation faced by such a large and important segment of California's population; and

WHEREAS, It is in the interest of all the citizens of the State of California that barriers which inhibit full participation in the educational, political, scientific, social, and economic activities of the state be eliminated; and

WHEREAS, Although there has been steady growth in the number of Hispanics participating in the educational, political, scientific, social, and economic activities of the state, Hispanics remain seriously underrepresented in all of these areas in comparison to the size of the population; and

WHEREAS, The continued underutilization and underdevelopment of the resources that exist within the growing Hispanic population threatens the stability of California's economy and its social structure; and

WHEREAS, For example, if the largest segment of California's work force is unprepared to compete for jobs in a highly technical and skilled marketplace, there is a strong likelihood that employers would look elsewhere to locate and take with them the opportunity for high-paying employment. Lower wages mean less economic power and a reduction of the ability of taxpayers to support the operation of government and the programs it implements for the benefit of all of its citizens; and

WHEREAS, As one example, the rising portion of the state's wage earners who will come from the Hispanic work force, and their lower comparative wage rates, will have a critical economic impact on funds available for retirement programs, workers' and unemployment compensation, and other employee benefits for all employees and their families; and

WHEREAS, The new Federal Immigration Reform and Control Act while alleviating some problems may exacerbate others and create new issues that must be researched or addressed; and

WHEREAS, Passage of Proposition 63, the English as official language constitutional amendment, poses new issues which must be examined and dealt with in ways which will benefit all Californians; and

WHEREAS, The serious economic and social problems being experienced by Mexico and other major sources of immigration to California will inevitably affect the state's Hispanic population; and

WHEREAS, It would be of invaluable assistance in seeking

solutions to many of these problems to have the benefit of a thorough understanding of the history, demographics, experience, and potential of California's Hispanic population; and

WHEREAS, It has become imperative that resources be focused so as to stimulate research and to promote evaluation and analysis of these problems by knowledgeable academicians, members of the professional and business communities, government officials, political and community leaders, and individual concerned citizens so that they may propose solutions that will benefit all segments of our society; and

WHEREAS, The Hispanic population is so heterogeneous and comprised of so many subpopulations that are differently affected by policy decisions, that solutions to many policy problems can be found only by rigorous study and understanding of the diverse needs and expectations presented by this group's members residing in the state; and

WHEREAS, Through the enormous resources made available through the University of California, the state would benefit from the development of research which would promote the evaluation and analysis of these problems and develop reliable information upon which, with the assistance of the university, strategies can be constructed and solutions can be proposed; and

WHEREAS, The University of California is already demonstrating a strong concern in these problem areas, having established centers for Chicano, Mexican, and Latin American studies on various campuses, a linguistic minority research project, the nine-campus University of California Consortium on Mexico and the United States (UC Mexus), which brings together scholars and scientists from the university and Mexico to address critical issues, and similar focused research and education programs; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California requests that the University of California initiate efforts in helping to coordinate the state's academic, professional, governmental, business, and community resources toward a comprehensive approach to these problems and their solutions, and that the university seek suitable research and graduate training funds commensurate with the university's major and diverse research mission and programs to aid in helping resolve crucial state problems; and be it further

Resolved, That the university make every effort to seek funds from foundations, private sources, state government, and from federal funds which are becoming available to states, such as the $1 billion included in the Immigration Reform and Control Act to assist states in its implementation, some of which is earmarked for education; and be it further

Resolved, That the university consider formation of a social research policy and priorities task force to help advise and coordinate the university's efforts in this direction and to involve both public

and private institutions and sectors in these efforts; and be it further

Resolved, That the university consider establishing an advisory committee as part of the task force to assist in the development of the report. In addition to representatives selected by the university, the university is requested to include three public members, one each to be designated by the Speaker of the Assembly, the President pro Tempore of the Senate, and the Governor. It is the intent of the Legislature that persons appointed or selected to serve on the task force and on the advisory group be selected primarily from the Hispanic community or from groups that represent that community, or both; and be it further

Resolved, That these policy research efforts concentrate on, but not be limited to, health, education, employment, government participation, housing, welfare, criminal justice, and immigration policy areas, using extant data sets when possible and creating new ones when needed; and be it further

Resolved, That the university consider as an initial priority, the thorough cataloging and collecting of information and data on existing efforts and available funding so that the task can be organized in a manner that will avoid the duplication of effort and cross purposes, and work toward goals which benefit and have the support of all responsible elements of our society; and be it further

Resolved, That the university report to the Legislature within nine months after the date this resolution is chaptered its response to this challenge, and how it plans to approach the task given to it through this measure. This report will include a discussion of the time frames contemplated by the university, the resources that will be needed for this effort, existing resources that the university anticipates tapping into, and the perceived benefits that the university believes this endeavor will bring to the people of this state; and be it further

Resolved, That the university, after its report to the Legislature, continue its efforts as expressed in this measure, with the goal of developing within the university a focused and coordinated capacity to do research, provide instruction, and develop resources that specifically address concerns raised in this resolution; and be it further

Resolved, That by passage of this resolution, the Legislature once again expresses its confidence in the ability of the nation's greatest university system to assist the state in addressing these important public policy problems and meeting the full potential of California as we prepare to enter the 21st century; 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 147

Senate Concurrent Resolution No. 45—Relative to commitment of developmentally disabled persons.

[Filed with Secretary of State September 18, 1987]

WHEREAS, Persons with developmental disabilities have the same legal rights and responsibilities guaranteed to all other individuals by the Constitution of the United States and the Constitution and laws of the State of California; and

WHEREAS, The personal liberty to each person with a developmental disability is a fundamental interest which must be protected; and

WHEREAS, Involuntary commitments of persons with developmental disabilities must meet strict due process standards and result in placements in the least restrictive environment possible; and

WHEREAS, The California Supreme Court in the In re Hop decision (29 Cal. 3d 82) has determined that commitments of developmentally disabled persons who lack the mental capacity to protest their current placement or to petition for a less restrictive placement are, in effect, involuntary commitments and therefore entitled to a judicial review; and

WHEREAS, Three to four thousand persons with developmental disabilities admitted to state developmental centers prior to 1981 are entitled to a judicial review of their placements in the wake of the In re Hop decision; and

WHEREAS, The State Department of Developmental Services has not established administrative procedures for judicial review of developmentally disabled persons already committed to state developmental centers; and

WHEREAS, Also statutory procedures do not exist for judicial review of new commitments of nonprotesting adults with developmental disabilities; and

WHEREAS, County commitment procedures intended to comply with In re Hop are inconsistent and conflicting; and

WHEREAS, In the absence of state laws or regulations establishing uniform commitment procedures for nonprotesting developmentally disabled adults, some counties are seeking to commit persons with developmental disabilities under statutory criteria contained in Section 6500 of the Welfare and Institutions Code, which, because of its implications of criminality, is inappropriate; and

WHEREAS, There is a need for uniform procedures and administrative processes to remedy the existing inconsistency and confusion with regard to commitments of persons with developmental disabilities; and

WHEREAS, There is a need to analyze the costs which would be

incurred in instituting a system of judicial reviews of developmentally disabled persons being committed or already committed to state developmental centers; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislative Analyst prepare and submit to the Legislature by January 1, 1988, a report that provides all of the following information:

(1) The number of persons currently residing in state developmental centers whose placement has not been reviewed under the constitutional standards as set forth in the case of In re Hop;

(2) Alternative methods available to counties to implement the In re Hop decision and the costs associated with each alternative;

(3) The criteria used by a representative number of counties for commitments under Section 6500 of the Welfare and Institutions Code;

(4) The capacity of the community service system to meet the needs of individuals who may be referred to the community as a result of the In re Hop reviews; and be it further

Resolved, That in preparing the report the Legislative Analyst consult with appropriate organizations including, but not limited to, the California District Attorneys Association, the California Public Defenders Association, the Association for Retarded Citizens - California, the Judicial Council, the California Association of State Hospital-Parent Councils for the Retarded, the Association of Regional Center Agencies, the State Department of Developmental Services, Protection and Advocacy, the State Council on Developmental Disabilities, the Organization of Area Boards, and the American Civil Liberties Union; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Legislative Analyst.

RESOLUTION CHAPTER 148

Senate Concurrent Resolution No. 54—Relative to Jewish citizens of the Union of Soviet Socialist Republics.

[Filed with Secretary of State September 18, 1987]

WHEREAS, The third largest community of Jews in the world resides in the Union of Soviet Socialist Republics; and

WHEREAS, Soviet Jews who practice their religion, study the Hebrew language, celebrate Jewish holidays, and otherwise express themselves as Jews are targets of frequent harassment and intimidation by Soviet authorities; and

WHEREAS, Tens of thousands of Soviet Jews have applied for exit visas to Israel and have been denied permission to emigrate; and

WHEREAS, Some Jewish activists have been arrested and convicted on false charges because of their religious and cultural activities, and these persons are now serving sentences in Soviet prisons and labor camps; and

WHEREAS, Officially-sanctioned Soviet anti-Semitism is becoming increasingly virulent; and

WHEREAS, The Soviet Union's refusal to permit the emigration of Jews is a violation of solemn Soviet commitments under the Helsinki Final Act and other international agreements; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California hereby adopts the following Soviet Jewish Refuseniks:

Vladimir Kislik of Moscow
Lev Shapiro of Leningrad
Yuli Karolin of Leningrad
Leonid Altman of Tashkent
Vladimir Prestin of Moscow
Aleksey Magarik of Moscow
Lev and Inna Elbert of Kiev
Bella Dizhur of Yurmala
Grigory Geishis of Leningrad
Evgeny and Irina Lein of Leningrad
Roman Fridman of Moscow
Boris and Elena Chernobilsky of Moscow

; and be it further

Resolved, That the Legislature shall continue to issue appeals to the Soviet government on behalf of these Refuseniks until these persons are released; and be it further

Resolved, That the above-mentioned Refuseniks should immediately be granted permission to emigrate in accordance with international law; and be it further

Resolved, That the Union of Soviet Socialist Republics should allow all other Jews desiring to emigrate to do so, and the U.S.S.R. should also respect the fundamental right of these persons to live where and how they choose; and be it further

Resolved, That the Secretary of the Senate shall transmit a copy of this resolution to the President and Secretary of State of the United States of America, to the General Secretary of the Communist Party of the Union of Soviet Socialist Republics, to the Ambassador of the Union of Soviet Socialist Republics to the United States of America, and to each of the Refuseniks named above.

RESOLUTION CHAPTER 149

Senate Joint Resolution No. 29—Relative to United States Forest Service lands.

[Filed with Secretary of State September 18, 1987]

WHEREAS, Hundreds of thousands of areas of prime national forest timber have been destroyed by forest fires; and

WHEREAS, Much of that timber was presently being harvested, and California counties receive 25 percent of gross receipts, as compensation for federal timber harvested; and

WHEREAS, Many of the communities in California's rural counties are completely dependent on a supply of national forest timber for their economic livelihood; and

WHEREAS, Loss of these receipts to the counties will have a devastating effect; and

WHEREAS, Even the remaining portion of merchantable timber volume will be devalued, and there will be a loss of pulp chip value, some loss of volume, increased operating costs, and lack of market flexibility; and

WHEREAS, Volume and value of timber are reduced in indirect proportion to time delay; and

WHEREAS, There is a need to accomplish salvage with a minimum impact on national forest values and programs, a need to reduce the risk of insect and disease attack, and a need to provide a mechanism for erosion control and revegetation at the earliest possible time; and

WHEREAS, Because of poor winter access to burned areas, it is necessary to accomplish as much work as possible this fall and next spring, including the implementation of expedited appraisals and sale preparations and examination of the need for special road funding in low value situations; 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 Secretary of Agriculture and the Congress of the United States to immediately implement and fund a salvage program in those burned areas of United States Forest Service lands in California; and be it further

Resolved, That those destroyed areas that were being harvested at the time of the fires, as well as those areas that were being prepared for sale, be considered first in order to lessen the economic impact on California counties; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Agriculture, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

1987–88

FIRST EXTRAORDINARY SESSION

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

A PROCLAMATION
by the Governor of the State of California

WHEREAS, an extraordinary occasion has arisen and now exists requiring that the Legislature of the State of California be convened in extraordinary session; now therefore,

I, GEORGE DEUKMEJIAN, Governor of the State of California, by virtue of the power and authority vested in me by Section 3 (b) Article IV of the Constitution of the State of California, do hereby convene the Legislature of the State of California, to meet in extraordinary session at Sacramento, California, on the 9th day of November, 1987, at 1:30 p.m. of said day for the following purpose and to Legislate upon the following subject:

To consider and act upon legislation relative to providing assistance to those persons and public entities that suffered losses as a result of the recent earthquakes in Los Angeles and Orange Counties.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 23rd day of October 1987.

George Deukmejian
Governor of California

ATTEST:

March Fong Eu
Secretary of State

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

A PROCLAMATION
by the Governor of the State of California

WHEREAS, the Legislature of the State of California has been called in extraordinary session and has convened on November 9, 1987; and

WHEREAS, on account of an extraordinary occasion which has arisen and now exists, it is deemed desirable and necessary to submit additional subjects to the Legislature for consideration; now, therefore,

I, GEORGE DEUKMEJIAN, Governor of the State of California, by virtue of the power and authority vested in me by law, hereby amend and supplement my Proclamation dated October 23, 1987, by adding the following additional purposes thereto, and thereby permitting the Legislature to legislate upon the following subjects, in addition to the subject specified in the original Proclamation, to wit:

To consider and act upon legislation relative to providing tax relief for those who suffered losses as a result of wildfires occurring in 1987 in areas proclaimed by the Governor to be in a state of emergency.

To consider and act upon legislation relative to the tax-exempt status of state and local government obligations.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 10th day of November 1987.

George Deukmejian
Governor of California

ATTEST:
March Fong Eu
Secretary of State

STATUTES OF CALIFORNIA

1987–88

FIRST EXTRAORDINARY SESSION

1987–88 CHAPTERS

CHAPTER 1

An act to add Section 8690.8 to the Government Code, relating to disaster relief, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor November 13, 1987. Filed with Secretary of State November 16, 1987]

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

SECTION 1. Section 8690.8 is added to the Government Code, to read·

8690.8. (a) There is hereby created, within the Disaster Response-Emergency Operations Account, the 1987 Higher Education Earthquake Account, into which shall be paid all moneys allocated pursuant to Section 8690.6 for assistance to eligible higher education entities that incurred losses or expenses related to earthquake activity that began on October 1, 1987. For purposes of this section, an "eligible higher education entity" means any campus of the California State University or of any community college district which is located within the disaster area proclaimed by the Governor, as a result of the October 1, 1987, earthquake and aftershocks. Moneys appropriated to the 1987 Higher Education Earthquake Account shall be used for the following purposes:

(1) To reimburse eligible higher education entities for personnel overtime costs and for supplies used for disaster assistance programs, including the cost of administering these assistance programs.

(2) To provide for the repair, cleanup, and reconstruction of damaged public facilities.

(3) To provide matching funds required under federal disaster assistance programs.

(4) Funds up to five hundred thousand dollars ($500,000) from the amount allocated to the account may be used for the purposes described in Section 8683 and also to provide administrative support required for the rapid and effective implementation of the disaster assistance program authorized by this subdivision.

(5) To provide other assistance as the Director of the Office of Emergency Services deems necessary to carry out this section.

(b) In order to qualify for funding under this section, the California State University and any eligible community college district shall undertake to utilize maximum federal participation in funding projects, and no funds allocated under this section shall be used to supplant federal funds otherwise available in the absence of state financial relief.

(c) The Office of Emergency Services shall establish standards and instructions for the receipt of applications from, and the processing of claims by, eligible higher education entities within 30 days of the operative date of this section, as added by the 1987–88

First Extraordinary Session of the Legislature. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, these standards, if promulgated, shall not be subject to the review and approval of the Office of Administrative Law.

(d) Under the standards and procedures to be prescribed by the Office of Emergency Services, a higher education entity may receive an advance of funds for approved costs. These advances shall not exceed 90 percent of the amount approved for allocation to the eligible local agency.

(e) Funds provided pursuant to the requirement of this section may be audited by the Controller.

(f) Any unused funds shall revert to the Disaster Response-Emergency Operations Account.

SEC. 2. The sum of fifteen million three hundred thousand dollars ($15,300,000) is hereby transferred from the Special Fund for Economic Uncertainties to the Disaster Response-Emergency Operations Account for allocation by the Director of Finance in accordance with Section 8690.6 of the Government Code and this act.

SEC. 3. Pursuant to Section 2 of this act, the sum of fifteen million three hundred thousand dollars ($15,300,000) shall be allocated, and continuously appropriated, to the 1987 Higher Education Earthquake Account created in Section 1 of this act. Of these funds, up to thirteen million five hundred thousand dollars ($13,500,000) shall be available to the Trustees of the California State University and one million eight hundred thousand dollars ($1,800,000) shall be available to the Board of Governors of the California Community Colleges in accordance with Section 8690.8 of the Government Code, as added by this act.

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

The recent disastrous earthquakes in areas of this state subsequently proclaimed to be in a state of emergency have destroyed and damaged property on campuses of certain public postsecondary educational institutions. In order that these institutions may continue to perform their functions without interruption, it is necessary that this act take effect immediately.

CHAPTER 2

An act to add Sections 50199.19 and 50662.5 to the Health and Safety Code, relating to disaster relief, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor November 13, 1987. Filed with Secretary of State November 16, 1987]

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

SECTION 1. Section 50199.19 is added to Chapter 3.6 (commencing with Section 50199.7) of Part 1 of Division 31 of the Health and Safety Code, as added by Chapter 658 of the Statutes of 1987, to read:

50199.19. In allocating housing credits for the 1988 calendar year, the committee shall give preference to housing credit applicants rehabilitating structures damaged or destroyed by the earthquakes of October of 1987 in counties proclaimed by the Governor to be in a state of emergency as a result of the earthquakes.

SEC. 2. Section 50662.5 is added to the Health and Safety Code, to read:

50662.5. For the purpose of providing disaster relief to those owners of owner-occupied single-family dwellings that were damaged or destroyed as a result of the Los Angeles-Whittier Narrows Earthquake on October 1, 1987, or subsequent aftershocks, resulting in a state of emergency proclaimed by the Governor pursuant to Section 8625 of the Government Code, financial assistance may be provided to disaster victims as prescribed in this chapter under the following special conditions, which shall prevail over conflicting provisions of this chapter and administrative regulations:

(a) The loans shall be provided in the counties proclaimed by the Governor to be in a state of disaster (1) to persons who do not qualify for loan assistance from an agency of the United States for rehabilitation of the damage caused by the earthquakes of October 1987, (2) to the extent that federally provided or assisted financing may be insufficient to accomplish the necessary rehabilitation, and (3) to the extent required to enable the recipient to obtain and afford loan assistance from an agency of the United States to finance the necessary rehabilitation. The loans shall be made only to households that are victims of the earthquakes specified in this section and only to the extent that other federal, state, local, or private resources are not available or do not provide the assistance or coverage needed to rehabilitate or reconstruct their homes.

(b) The loans shall be for the purpose of rehabilitating, including reconstruction, of single-family dwellings that are owner-occupied or would be owner-occupied but for the damage caused by the

earthquake or earthquakes.

(c) The maximum loan amount shall not exceed twenty thousand dollars ($20,000), except that the department may waive this limitation in individual cases to permit compliance with health and safety standards or to restore the dwelling to a condition substantially similar to its condition prior to the earthquakes.

(d) The loan, together with any existing indebtedness encumbering the security property, shall not exceed 100 percent of the after-rehabilitation value of the property, except that the department may waive this limitation in individual cases to permit compliance with health and safety standards or to restore the dwelling to a condition substantially similar to its condition prior to the earthquakes.

(e) The department shall impose no income criteria or other means test as a prerequisite to obtaining a loan under this section.

(f) Repayment of the principal amount of a loan under this section and interest thereon shall not be required until the borrower transfers ownership of the rehabilitated property. Payments of principal and interest on the loans shall, notwithstanding Section 50661, be deposited in the General Fund.

(g) The adoption by the department of rules for implementation of this chapter shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(h) No commitments of loan funds under this section may be made after December 31, 1990.

(i) Section 50668 does not apply to loans made pursuant to this section.

SEC. 3. (a) In addition to any other funds made available, the sum of seventeen million five hundred thousand dollars ($17,500,000) is hereby transferred from the Special Fund for Economic Uncertainties to the Disaster Response-Emergency Operations Account therein for allocation by the Department of Finance in accordance with Section 8690.6 of the Government Code and this section pursuant to the following schedule:

(b) Of the funds transferred pursuant to subdivision (a), seven million five hundred thousand dollars ($7,500,000) is transferred to the Housing Rehabilitation Loan Fund for use by the Department of Housing and Community Development for making deferred-payment loans pursuant to Section 50662.5 of the Health and Safety Code, including administrative costs, which shall not exceed two hundred fifty thousand dollars ($250,000).

(c) Of the funds transferred pursuant to subdivision (a), ten million dollars ($10,000,000) shall be allocated to the State Department of Social Services for allocation by that department to provide individual and family grant assistance to persons incurring damage due to earthquakes occurring in October 1987 in Los Angeles and Orange Counties. These funds shall not be used to fulfill matching fund requirements for federal disaster assistance, but shall

be used to supplement the federal Individual and Family Grant Program. A supplemental grant provided for under this subdivision to an individual or family shall not exceed ten thousand dollars ($10,000): Any moneys subject to this subdivision that are not encumbered as of July 1, 1988, shall be transferred on that date to the Housing Rehabilitation Loan Fund for use as specified in subdivision (a).

SEC. 4. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 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 disaster assistance without delay for damage caused by the October 1987 earthquakes in Los Angeles and Orange Counties, it is necessary that this act take effect immediately.

CHAPTER 3

An act to amend Section 17207 of the Revenue and Taxation Code, relating to disaster relief, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor November 13, 1987 Filed with Secretary of State November 16, 1987]

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

SECTION 1. Section 17207 of the Revenue and Taxation Code is amended to read:

17207. (a) For disaster losses resulting from (1) forest fire or any other related casualty occurring in 1985 in California, (2) from storm, flooding, or any other related casualty occurring in 1986 in California, (3) from forest fire or any other related casualty occurring in 1987 in California, or (4) from earthquake, aftershock, or any other related casualty occurring in 1987 in California, which qualify for treatment under Section 165(i) of the Internal Revenue Code, to the extent that those losses, as computed pursuant to Section 165(a) of the Internal Revenue Code, as modified by Section 17206, exceed the taxable income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the taxable income of the year preceding the loss, then that "excess loss" may be carried at the election of the taxpayer to other taxable years as provided in subdivision (b).

(b) For losses covered by Sections 165(c)(1) and 165(c)(2) of the

Internal Revenue Code, relating to trade or business losses, losses resulting from transactions entered into for profit, and for losses covered by Section 165(c)(3) of the Internal Revenue Code, relating to personal casualty losses, the "excess loss" may be carried forward to each of the five taxable years following the year the loss is claimed.

(c) The entire amount of any "excess loss" as defined in subdivision (a) shall be carried to the earliest of the taxable years to which, by reason of subdivision (b), the loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of "excess loss" over the sum of the taxable income for each of the prior taxable years to which that "excess loss" may be carried.

(d) The provisions of this section and Section 165(i) of the Internal Revenue Code shall be applicable to any of the following losses sustained in any county in this state which was proclaimed by the Governor to be in a state of disaster:

(1) Any loss sustained during February 1986 as a result of storm, flooding, or any other related casualty.

(2) Any loss sustained during 1987 as a result of forest fire or any other related casualty.

(3) Any loss to the taxpayer's residence sustained during October 1987 as the result of earthquake, aftershock, or any other related casualty.

SEC. 2. (a) There is hereby appropriated from the Special Fund for Economic Uncertainties to the Office of Emergency Services an amount sufficient to make the grants required by this act, to be allocated by the Office of Emergency Services pursuant to this section.

(b) (1) Of the sums appropriated pursuant to subdivision (a), a sum sufficient to award grants to eligible nonprofit agencies incurring substantial damage due to earthquakes during October 1987 shall be allocated to any city or county receiving applications from eligible nonprofit agencies for such grants, a sum not to exceed two million five hundred thousand dollars ($2,500,000).

(2) No grant awarded pursuant to paragraph (1) shall exceed three hundred fifty thousand dollars ($350,000) for any eligible nonprofit agency.

(3) Cities and counties shall administer and distribute funds allocated pursuant to paragraph (1).

(c) Of the sums tranferred pursuant to subdivision (a), a sum sufficient to reimburse cities and counties for their costs incurred in the administration and distribution of grant funds pursuant to paragraph (2) of subdivision (b) shall be allocated to those cities and counties.

(d) (1) Eligible nonprofit agencies shall submit, on or before February 1, 1988, to the appropriate city or county, applications, including proof of substantial damage, for grants for relief for substantial damage due to earthquakes occurring during October 1987.

(2) Cities and counties shall certify the amount of earthquake damage to the Office of Emergency Services for the allocation of funds pursuant to subdivision (b).

(e) For the purposes of this section:

(1) "Eligible nonprofit agency" means any corporation, community chest, or trust primarily involved in community services.

(2) "Substantial damage" means damage, in the amount of twenty-five thousand dollars ($25,000) or more, to property used by the applicant for the purposes for which the applicant is organized and operated.

(f) The Office of Emergency Services shall establish guidelines in carrying out this act. These guidelines shall include a procedure for the review of claims submitted by a city or county to the Office of Emergency Services for allocations under this act. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these standards shall not be subject to the review and approval of the Office of Administrative Law.

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 timely relief from the devastating effects of the October 1987 earthquakes for those organizations which provided community services, it is necessary that this act take effect immediately.

CHAPTER 4

An act to add Section 50671 to the Health and Safety Code, relating to disaster relief, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor November 13, 1987 Filed with Secretary of State November 16, 1987]

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

SECTION 1. The Legislature hereby finds and declares that the Los Angeles-Whittier Narrows Earthquake resulted in destruction and damage affecting several thousand apartments and subsequent displacement of tenants. It is the intent of the Legislature to assist local communities in the rehabilitation and replacement of residential rental structures and to aid displaced tenants in the jurisdictions subject to the state of emergency proclaimed by the Governor on October 2 and 5, 1987, pursuant to Section 8625 of the Government Code to the extent that other federal, state, local, and private resources are not available or do not provide the assistance

or coverage needed.

SEC. 2. Section 50671 is added to the Health and Safety Code, to read:

50671. For the purpose of providing disaster relief to owners of rental housing and the tenants residing in rental housing that was damaged or destroyed as a result of the Los Angeles-Whittier Narrows Earthquake on October 1, 1987, or subsequent aftershocks, resulting in a state of emergency proclaimed by the Governor pursuant to Section 8625 of the Government Code, financial assistance may be provided to disaster victims as prescribed in this chapter under the following special conditions, which shall prevail over conflicting provisions of this chapter and administrative regulations:

(a) Funds may be used for the purpose of rehabilitating, including reconstruction of, rental housing developments, including residential hotels, which were damaged or destroyed as a result of the earthquake.

(b) Rental housing developments, as otherwise defined in subdivision (b) of Section 50669, need not contain a minimum of five rental dwelling units. One rental dwelling unit shall be sufficient.

(c) The loans need not be made in support of the programs specified in Section 50663.

(d) As a condition of assistance to sponsors of rental housing developments, the department may establish those rent levels as it may determine (1) are necessary to alleviate hardship in the disaster area, (2) provide for affordable rents or rents not exceeding those charged prior to the earthquakes, and (3) are consistent with the economic feasibility of the assisted rental housing development. In addition to the other requirements of this chapter, the department may require terms and conditions as it determines necessary to meet the needs of the disaster area and its victims, to ensure the fiscal integrity of the rental housing development and to protect the interests of the state. The department shall require that priority in occupancy in any unit in a development assisted pursuant to this section shall be given first to occupants of rental units assisted pursuant to this section who were displaced by the earthquakes or resulting rehabilitation of the assisted rental units. Second priority shall be given to lower income households and very low income households who have been displaced during the 12 months after the earthquake from other nonassisted dwelling units as a result of the earthquake or repairs made thereafter. Third priority shall be given to any other victims of this disaster who are persons and families of low or moderate income, including those who may be permanently displaced during the 12 months after the earthquake because of significant rent increases related to repair of earthquake damage. After no additional victims of the disaster qualify for, or remain in, any assisted units, these units shall be available to on a priority basis, or occupied by, very low income households and lower income households.

(e) In allocating funds to local public entities and nonprofit corporations, the department shall consider the availability of other resources to assist rental housing and the occupants of that rental housing and shall give priority to those applicants in jurisdictions with the greatest housing need resulting from the disaster and the fewest resources to address those needs.

(f) The department may waive the maximum loan amounts and per-unit loan amounts established by regulation as it determines necessary to serve the disaster victims.

(g) A loan to a nonprofit corporation or a limited partnership in which a nonprofit corporation is a general partner which owns or will acquire a rental housing development shall not exceed 100 percent of the combined costs of rehabilitation and refinancing existing indebtedness or rehabilitation and acquisition costs.

(h) A loan may be made to a local housing authority or community development commission to rehabilitate vacant rental housing that it owns and operates.

(i) When a loan will be used in conjunction with federal or other state housing assistance or tax credits and a conflict exists between the other state or federal program requirements and this chapter with regard to determining maximum allowable rents, the requirements of this chapter may be waived only to the extent necessary to permit the federal or other state financial participation or eligibility for tax credits.

(j) Eligible rehabilitation or reconstruction costs may include the costs of temporary relocation where damage caused by the earthquake or rehabilitation or reconstruction of the rental housing development necessitates temporarily displacement of the tenants. The amount of monthly relocation assistance provided to eligible households temporarily displaced shall not exceed the difference between monthly rent paid by the tenant prior to the earthquake and rent in the replacement housing located by the local public entity or nonprofit corporation until rehabilitation is completed, but in no case shall, the total amount exceed one thousand dollars ($1,000). Prior to providing relocation assistance payments, the local public entity or nonprofit shall ensure that displaced tenants have applied for any and all other financial assistance for which the tenants are eligible that is provided by any other federal, state, or local programs.

(k) The department may provide funds to local public entities and nonprofit corporations for related administrative expenses in an amount not to exceed 5 percent of the total loan commitments subject to this section from the Housing Rehabilitation Loan Fund.

(*l*) No funds shall be committed pursuant to this section on or after January 1, 1990.

SEC. 3. Any rule, policy, or standard of general application employed by the Department of Housing and Community Development in implementing the provisions of this act 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. 4. Fund allocations made pursuant to this act shall not be subject to review or approval by the Loan Committee of the Department of Housing and Community Development operating pursuant to Subchapter 1 (commencing with Section 6900) of Chapter 6.5 of Title 25 of the California Administrative Code.

SEC. 5. Notwithstanding other provisions of law, any moneys transferred or appropriated by Section 7 of this act which are repaid, rebated, or not committed for the purposes of this act by January 1, 1990, shall be returned to the General Fund.

SEC. 6. No development fee may be levied pursuant to Sections 53080 and 65995 of the Government Code on the reconstruction or rehabilitation of any residential, commercial, or industrial development project that is damaged or destroyed as a result of the October 1987 earthquakes in Los Angeles and Orange Counties.

SEC. 7. In addition to any other funds made available, the sum of seven million five hundred thousand dollars ($7,500,000) is hereby appropriated from the Special Fund for Economic Uncertainties to the 1987 Southern California Earthquake Account in the Natural Disaster Assistance Fund for allocation in accordance with the following schedule:

(a) Seven million two hundred fifty thousand dollars ($7,250,000) to the Housing Rehabilitation Loan Fund established pursuant to Section 50661 of the Health and Safety Code to be expended for purposes authorized by Section 50671 of the Health and Safety Code.

(b) Two hundred fifty thousand dollars ($250,000) for administrative costs by the Department of Housing and Community Development.

SEC. 8. To the extent that any housing units or structures damaged or destroyed by the earthquake are reconstructed with substantially the same number of units and with assistance provided pursuant to this act, they shall be deemed "existing housing" for the purposes of subdivision (d) of Section 37001.5.

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:

This act establishes and provides funding for programs which address a housing crisis in this state caused by the Los Angeles-Whittier Narrows Earthquake. In order to make these programs operational at the earliest possible time, it is necessary that this act take immediate effect.

CHAPTER 5

An act to amend Sections 17062 and 23400 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor November 13, 1987 Filed with Secretary of State November 16, 1987]

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

SECTION 1. Section 17062 of the Revenue and Taxation Code is amended to read:

17062. (a) In addition to the other taxes imposed by this part, there is hereby imposed for each taxable year, a tax equal to the excess, if any, of—

(1) The tentative minimum tax for the taxable year, over

(2) The regular tax for the taxable year.

(b) For purposes of this chapter, each of the following shall apply:

(1) The tentative minimum tax shall be computed in accordance with Sections 55 to 59, inclusive, of the Internal Revenue Code, except as otherwise provided in this part.

(2) The regular tax shall be the amount of tax imposed by Section 17041, reduced by the sum of the credits allowable under this part other than the credits allowed under Sections 17053.5 (renter's credit), 17061 (excess contributions for state disability insurance), and 18551.5 (tax withheld).

(3) (A) The provisions of Section 55(b)(1) of the Internal Revenue Code shall be modified to provide that the tentative minimum tax for the taxable year shall be equal to 7 percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount.

(B) In the case of a nonresident or part-year resident, the tentative minimum tax shall be computed as if the nonresident or part-year resident were a resident multiplied by the ratio of California source alternative minimum taxable income to total alternative minimum taxable income from all sources.

(4) The provisions of Section 57(a)(5) of the Internal Revenue Code, relating to tax-exempt interest shall not be applicable.

(5) The provisions of Section 59(a) of the Internal Revenue Code, relating to the alternative minimum tax foreign tax credit, shall not be applicable.

SEC. 2. Section 23400 of the Revenue and Taxation Code is amended to read:

23400. (a) In addition to the other taxes imposed by this part, there is hereby imposed for each taxable year (as defined in Section 23041), a tax equal to the excess, if any, of—

(1) The tentative minimum tax for the taxable year, over

(2) The regular tax for the taxable year.

(b) For purposes of this chapter, each of the following shall apply:

(1) The tentative minimum tax shall be computed in accordance with Sections 55 to 59, inclusive, of the Internal Revenue Code, except as otherwise provided in this part.

(2) The regular tax shall be the amount of tax imposed under Chapter 2 (commencing with Section 23101) or Chapter 3 (commencing with Section 23501), reduced by the sum of the credits allowable under this part.

(3) (A) The provisions of Section 55(b)(1) of the Internal Revenue Code shall be modified to provide that the tentative minimum tax for the taxable year shall be equal to 7 percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount.

(B) For corporations whose net income is determined under Chapter 17 (commencing with Section 25101), alternative minimum taxable income shall be apportioned in the same manner as net income is apportioned for purposes of the regular tax under this part.

(4) The provisions of Section 56(c)(2) of the Internal Revenue Code, relating to Merchant Marine Capital Construction Funds, shall not be applicable.

(5) (A) The provisions of Section 56(g)(4)(A)(iv) of the Internal Revenue Code, relating to property placed in service prior to 1981, shall not be applicable.

(B) The provisions of Section 56(g)(4)(A) of the Internal Revenue Code shall be modified to provide that in the case of any property placed in service prior to January 1, 1987, and not described in clause (i), (ii), or (iii) of Section 56(g)(4)(A) of the Internal Revenue Code, the amount allowable as depreciation or amortization with respect to that property shall be the same amount that would have been allowable for the income year had the taxpayer depreciated the property under the straight-line method for each income year of the useful life (determined without regard to Section 24354.2 or 24381) for which the taxpayer has held the property.

(6) The provisions of Section 57(a)(5) of the Internal Revenue Code, relating to tax-exempt interest, shall not be applicable.

(7) The provisions of Section 59(a) of the Internal Revenue Code, relating to the alternative minimum tax foreign tax credit, shall not be applicable.

(8) The provisions of Section 59(b) of the Internal Revenue Code, relating to income eligible for the credit under Section 936 of the Internal Revenue Code, shall not be applicable.

(c) With respect to taxpayers subject to Article 4 (commencing with Section 23221) of Chapter 2, the provisions of Articles 4 (commencing with Section 23221) to 9 (commencing with Section 23361), inclusive, shall apply to the tax imposed by this section except that Section 23221 shall not apply.

(d) For the purposes of computing the alternative minimum tax for taxable years in which a taxpayer commenced doing business, dissolves, withdraws, or ceases doing business, the provisions of

Sections 23151, 23151.1, 23151.2, 23181, 23183, 23183.1, 23183.2, 23201 to 23204, inclusive, 23222 to 23224.5, inclusive, 23282, 23332.5, 23504, and 25401 shall be applied with due regard for the rate and alternative minimum taxable income prescribed by this chapter.

SEC. 3. It is the intent of the Legislature in enacting this act during this extraordinary session to facilitate the sale of bonds for the construction and reconstruction of housing and public facilities which were damaged or destroyed during the earthquake and aftershocks of October 1987 in the Los Angeles and Orange County areas.

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. However, the provisions of this act shall be applied in the computation of taxes for taxable years beginning on or after January 1, 1987, and for income years beginning on or after January 1, 1988.

CHAPTER 6

An act to add Chapter 6 (commencing with Section 197) to Part 1 of Division 1 of the Revenue and Taxation Code, relating to disaster relief, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor November 13, 1987. Filed with Secretary of State November 16, 1987.]

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

SECTION 1. Chapter 6 (commencing with Section 197) is added to Part 1 of Division 1 of the Revenue and Taxation Code, to read:

CHAPTER 6. EARTHQUAKE AND FIRE DISASTER RELIEF

197. As used in this chapter:

(a) "Eligible county" means a county which meets both of the following requirements:

(1) Has been proclaimed by the Governor to be in a state of disaster as a result of the earthquake and aftershocks which occurred in October 1987 in the Counties of Los Angeles and Orange or as a result of the fires which occurred in 1987 in this state.

(2) Has adopted an ordinance providing property tax relief for earthquake, aftershock, and fire disaster victims as provided in Section 170.

(b) "Eligible property" means real property and any mobilehome, including any new construction which was completed or any change in ownership which occurred prior to October 1, 1987, which meets both of the following requirements:

(1) Is located in an eligible county.

(2) Has sustained substantial disaster damage due to the fires occurring in this state in 1987 or due to the earthquake or aftershocks occurring during 1987, which fires, earthquake, and aftershocks resulted in the issuance of disaster proclamations by the Governor.

"Eligible property" does not include any real property or any mobilehome, whether or not it otherwise qualifies as eligible property, if that real property or mobilehome was purchased or otherwise acquired by a claimant for relief under this chapter after October 1, 1987.

(c) "Substantial disaster damage", as to real property located in a county declared to be a disaster by the Governor as a result of the earthquake and aftershocks occurring on October 1, 1987, means, with respect to real property and any mobilehome which has received the homeowner's exemption or is eligible for the exemption as of March 1, 1987, damage amounting to at least 10 percent of its fair market value or five thousand dollars ($5,000), whichever is less; and, with respect to other property, damage to the parcel of at least 20 percent of its fair market value immediately preceding the disaster causing the damage.

"Substantial disaster damage", as to real or personal property located in a county declared to be a disaster by the Governor as a result of fires occurring in 1987 means, with respect to real property and any mobilehome which has received the homeowner's exemption or is eligible for the exemption as of October 1, 1987, damage amounting to at least 10 percent of its fair market value or five thousand dollars ($5,000), whichever is less.

(d) "Fair market value" means "full cash value" or "fair market value" as defined in Section 110.

(e) "Property tax deferral claim" means a claim filed by the owner of eligible property in conjunction with or in addition to the filing of an application for reassessment of that property pursuant to Section 170, which enables the owner to defer payment of the December 10, 1987, installment of taxes on property on the regular secured roll for the 1987–88 fiscal year, as provided in Section 197.1, or to defer payment of taxes on property on the supplemental roll for the 1987–88 fiscal year, as provided in Section 197.9.

197.1. (a) Any owner of eligible property who files on or before December 10, 1987, a claim for reassessment pursuant to Section 170 may apply to the county assessor to defer payment of the first installment of property taxes on the regular secured roll for the 1987–88 fiscal year with respect to that property which are due no later than December 10, 1987. If a timely claim is filed, the payment shall be deferred without penalty or interest until the assessor has reassessed the property and a corrected bill prepared pursuant to the provisions of Section 170 has been sent to the property owner. Taxes deferred pursuant to this section are due 30 days after receipt by the owner of the corrected tax bill and if unpaid thereafter are delinquent as provided in Section 2610.5 and shall be subject to the penalty provided by law.

(b) If, following reassessment pursuant to subdivision (a), the assessor determines that an owner who applied and was granted a deferral of property taxes did not file the claim in good faith, the owner shall be assessed a delinquency penalty for the nonpayment of the deferred taxes.

(c) The provisions of this section do not apply to property taxes paid through impound accounts.

197.2. On or before January 15, 1988, the tax collector of an eligible county shall certify to the Director of Finance the total amount of the first installment of property taxes for all eligible property on both the regular secured roll and the supplemental roll for the 1987–88 fiscal year which were deferred pursuant to Section 197.1.

197.3. If an eligible county has adopted an ordinance in accordance with Section 197.9, the tax collector shall certify to the Director of Finance on or before January 31, 1988, the total amount of supplemental roll property tax deferral claims submitted pursuant to Section 197.9 to the county by 5 p.m. on December 10, 1987.

197.4. After the tax collector of an eligible county has made the applicable certification to the Director of Finance pursuant to Section 197.2, the director shall, within 30 days and after verification, certify this amount to the Controller for allocation to the county. Upon receipt of certification by the Director of Finance, the Controller shall make the appropriate allocation to the county within 10 working days thereafter.

197.5. On or before December 31, 1988, each eligible county shall compute and remit to the Controller for deposit in the General Fund an amount equal to the amount allocated to it by the Controller pursuant to Section 197.4, less the amount of its property tax revenue lost in the 1987–88 fiscal year with respect to eligible properties as a result of the reassessment pursuant to Section 170 of that property. If the amount computed pursuant to this section for an eligible county is less than zero, the Controller shall allocate that amount to the county.

197.6. On or before December 31, 1988, each eligible county which has adopted an ordinance in accordance with Section 197.9, shall compute and remit to the Controller for deposit in the General Fund an amount equal to the amount allocated to it by the Controller pursuant to Section 197.4, less the amount of its supplemental roll property tax revenue lost in the 1987–88 fiscal year with respect to eligible properties as the result of reassessment pursuant to Section 170 of that property. If the amount computed pursuant to this section for an eligible county is less than zero, the Controller shall allocate that amount to the county.

197.8. The allocation of funds to, and the repayment of funds by, counties made pursuant to this chapter shall be subject to review and audit by the Controller.

197.9. Each eligible county may adopt an ordinance to permit the deferral of unpaid nondelinquent 1987–88 fiscal year supplemental

roll taxes on eligible property reassessed pursuant to Chapter 3.5 (commencing with Section 75) of Part 0.5 if the owner files a claim for deferral on or before December 10, 1987, with the assessor. Taxes deferred pursuant to this section shall be due on the last day of the month following the month in which the corrected bill is mailed or the delinquent date of the first installment of the original bill, whichever is later.

198. The Department of Finance shall establish guidelines in carrying out this chapter. These guidelines shall include a procedure for the review of claims submitted by an eligible county to the Department of Finance. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these standards shall not be subject to the review and approval of the Office of Administrative Law.

198.1. Any eligible county may adopt an ordinance providing for the temporary postponement of the April 10, 1988, installment of taxes on property on the regular secured roll for the 1987–88 fiscal year until December 10, 1988, and, notwithstanding any other provision of this chapter, the further postponement of the December 10, 1987, installment of taxes on property on the regular secured roll for the 1987–88 fiscal year until December 10, 1988. The state shall provide no reimbursement payments to local jurisdictions for the postponement of property taxes pursuant to this section.

SEC. 2. With respect to the adoption of the redevelopment plan within the City of Whittier which includes as the redevelopment project area thereof all or any portion of a disaster area, as defined in Section 34004 of the Health and Safety Code, based upon the earthquakes of October 1, 1987, and October 4, 1987, the provisions of Chapter 4 (commencing with Section 33300) and Chapter 6 (commencing with Section 33600) of Part 1 of Division 24 of the Health and Safety Code shall be modified as follows:

(a) For the purposes of Sections 33328 and 33670, and for purposes of the allocation of taxes pursuant to Section 33670 and the provisions of any such disaster area redevelopment plan, "last equalized assessment roll" and "base-year assessment roll" means the assessment roll as reduced in accordance with the provisions of subdivision (b) of Section 170 of the Revenue and Taxation Code.

(b) The disaster area redevelopment plan may be approved and adopted pursuant to the Community Redevelopment Financial Assistance and Disaster Project Law (Part 1.5 (commencing with Section 34000) of Division 24 of the Health and Safety Code) without regard to the procedural requirement exemptions for the preparation and adoption of a redevelopment plan referred to in Section 34013 and without regard to the procedural requirements for the preparation and adoption of a redevelopment plan which were enacted after the effective date of the Community Redevelopment Financial Assistance and Disaster Project Law and which are impossible, impractical, or infeasible to perform by virtue of the procedural requirements exempted by Section 34013 or by virtue of

the determination of the City Council of the City of Whittier of the need for the speedy adoption of the disaster area redevelopment plan.

SEC. 3. The Legislature, in enacting Section 2 of this act, finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution due to the following unique circumstances:

The damage caused by the earthquake and aftershocks occurring in October 1987 present a special need for immediate aid and assistance to the disaster area located within the redevelopment project area of the redevelopment agency of the City of Whittier.

SEC. 4. The sum of two million dollars ($2,000,000) is hereby transferred from the Special Fund for Economic Uncertainties to the Disaster Response-Emergency Operations Account for allocation by the Director of Finance for the purposes of this act.

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

In order to provide property tax relief to victims of the October 1987 southern California earthquake and aftershocks and the fires occurring in this state in 1987 as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 7

An act to amend Section 8690.4 of the Government Code, relating to natural disaster relief, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor November 13, 1987. Filed with Secretary of State November 16, 1987.]

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

SECTION 1. Section 8690.4 of the Government Code is amended to read:

8690.4. The Controller shall establish the following six special accounts in the Natural Disaster Assistance Fund:

(a) The Public Facilities Account, into which shall be paid all resources of the appropriation made by Section 4 of Chapter 624 of the Statutes of 1973, any money hereafter appropriated by the Legislature for allocation for public facilities projects, and any income from investment of moneys in the account and payments by local agencies in reimbursement of moneys disbursed from the account, including deferred payments with charges, pursuant to Section 8686.8.

(b) The Street and Highway Account, into which shall be paid all

resources transferred from the Street and Highway Disaster Fund, any money received from the federal government as reimbursement to any city or county for expenditures from funds allocated, transferred or expended pursuant to this chapter for a street and highway project, any money hereafter appropriated by the Legislature for allocation for street and highway projects, and any income from investment of moneys in the account and payments by local agencies in reimbursement of moneys disbursed from the account including deferred payments with charges, pursuant to Section 8686.8.

(c) The 1983 Natural Disasters Account, into which shall be paid all moneys appropriated by the Legislature for allocation to those who have incurred losses or expenses resulting from the Coalinga earthquake of May 2, 1983, or the Morgan Hill earthquake of April 24, 1984, as follows:

(1) To reimburse local agencies for personnel overtime costs and for supplies used for disaster assistance.

(2) To provide for the repair, cleanup, and reconstruction of damaged public facilities.

(3) To provide state matching funds for federal assistance.

(4) To provide other assistance as the Director of the Office of Emergency Services deems necessary to carry out the provisions of this subdivision.

(d) The 1986 Flood Disaster Account, into which shall be paid all moneys appropriated by the Legislature for allocation to reclamation and levee maintenance districts maintaining nonproject levees damaged by the storms and floods of February 1986.

(e) The Earthquake Emergency Investigations Account, into which shall be paid all moneys appropriated by the Legislature to the Seismic Safety Commission for allocation for the purpose of enabling immediate investigation of damaging earthquakes. Allocations may be made by the commission to assist organizations which have incurred expenses in the course of conducting earthquake investigations. Allocations may be made to cover the following expenses:

(1) Travel, meals, and lodging.

(2) Publishing of findings.

(3) Contractor assistance in the investigation.

(4) Other expenses which the commission may allow as necessary to assist the investigation.

(f) (1) The 1987 Southern California Earthquake Account, into which shall be paid all moneys allocated pursuant to Section 8690.6 for assistance to eligible state and local agencies that incurred losses or expenses related to earthquake activity that began on October 1, 1987. For the purposes of this section, an eligible "local agency" is any county, city, or special district located within the disaster area proclaimed by the Governor, as a result of the October 1, 1987, earthquake and aftershocks. Moneys appropriated to this account shall be used for the following purposes:

(A) To reimburse local agencies for personnel overtime costs and for supplies used for disaster assistance programs, including the cost of administering these assistance programs.

(B) To repair, restore, reconstruct, or replace public facilities belonging to state or local agencies which were damaged or destroyed by the October 1987 earthquake in Los Angeles and Orange Counties.

(C) To provide matching funds required under federal disaster assistance programs.

(D) Funds up to two million dollars ($2,000,000) from the amount allocated to the account may be used for the purposes described in Section 8683 and also to provide administrative support required for the rapid and effective implementation of the disaster assistance program authorized by this subdivision.

(E) To provide other assistance as necessary to carry out this subdivision.

(2) In order to qualify for funding under this subdivision, local agencies shall undertake to recover maximum federal participation in funding projects, and no funds allocated under this subdivision shall be used to supplant federal funds otherwise available in the absence of state financial relief.

(3) The Office of Emergency Services shall establish standards and instructions for the receipt of applications and the processing of local agency claims within 30 days of the operative date of the amendments to this section at the 1987 First Extraordinary Session of the Legislature. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, these standards, if promulgated, shall not be subject to the review and approval of the Office of Administrative Law.

(4) Under the standards and procedures to be prescribed by the Office of Emergency Services, a local agency may receive an advance of funds for approved costs. These advances shall not exceed 90 percent of the amount of state funds approved for allocation to the eligible local agency. Funds provided pursuant to the requirement of this paragraph may be audited by the Controller. Any unused funds shall revert to the Disaster Response-Emergency Operations Account.

(5) Subject to the notification requirements in Section 8690.6, up to fifteen million dollars ($15,000,000) shall be allocated to local agencies no later than 90 days after the operative date of the amendments to this section at the 1987 First Extraordinary Session of the Legislature.

(6) (1) Application procedures established pursuant to this subdivision shall conform to the procedures required in the federal Disaster Relief Act (42 U.S.C. Sec. 5178).

(2) The Office of Emergency Services shall ensure that applicants have followed the procedures established in paragraph (A) and that applicants have exhausted all other available means of seeking relief for earthquake damage prior to any grants under this subdivision.

SEC. 2. (a) The Superintendent of Public Instruction shall represent the State of California as necessary in order to obtain assistance from the federal Department of Education for public school districts and County Offices of Education which incurred losses as a result of the earthquake which occurred October 1, 1987, and the aftershocks.

(b) The Superintendent of Public Instruction shall, with the approval of the Director of Finance, allocate funds provided in Section 3 of the act which added this section for assistance to public school districts and County Offices of Education that incurred losses or expenses related to earthquake activity that began on October 1, 1987, and which are located within the disaster area proclaimed by the Governor as a result of the October 1, 1987, earthquake and aftershocks.

(c) In order to qualify for funding under this subdivision, public school districts and County Offices of Education shall undertake to recover maximum federal participation in funding projects, and no funds allocated under this section shall be used to supplant federal funds otherwise available in the absence of state financial relief.

(d) The Superintendent of Public Instruction shall establish standards and instructions for the receipt of applications and the processing of claims within 30 days of the operative date of the amendments to this section at the 1987–88 First Extraordinary Session of the Legislature. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, these standards, if promulgated, shall not be subject to the review and approval of the Office of Administrative Law.

(e) Under the standards and procedures to be prescribed by the Superintendent of Public Instruction, public school districts and county offices of education may receive an advance of funds for approved costs. These advances shall not exceed 90 percent of the amount of state funds approved for allocation to the eligible agency. Funds provided pursuant to the requirement of this paragraph may be audited by the Controller. Any unused funds shall revert to the Disaster Response-Emergency Operations Account.

(f) Moneys appropriated by this section shall be used for the following purposes:

(1) To reimburse public school districts and county offices of education for personnel overtime costs and for supplies used for disaster assistance programs, including the cost of administering these assistance programs.

(2) To repair, restore, reconstruct, or replace public facilities belonging to public school districts and county offices of education which were damaged or destroyed by the October 1987 earthquake in Los Angeles and Orange Counties.

(3) To provide matching funds required under federal disaster assistance programs.

(4) To provide other assistance as necessary to carry out this section.

SEC. 3. (a) The sum of forty-six million five hundred thousand dollars ($46,500,000) is hereby transferred from the Special Fund for Economic Uncertainties to the Disaster Response-Emergency Operations Account for allocation by the Director of Finance in accordance with Section 8690.6 of the Government Code and this section.

(b) Of the funds transferred pursuant to subdivision (a), the sum of thirty-four million five hundred thousand dollars ($34,500,000) shall be allocated to the 1987 Southern California Earthquake Account for assistance to local agencies.

(c) Of the funds transferred pursuant to subdivision (a), the sum of one million eight hundred thousand dollars ($1,800,000) shall be allocated to the 1987 Southern California Earthquake Account for assistance to state agencies.

(d) Of the funds transferred pursuant to subdivision (a), the sum of four million two hundred thousand dollars ($4,200,000) shall be allocated to the Superintendent of Public Instruction, subject to the approval of the Director of Finance, for matching funds provided by the federal Department of Education to public school districts or county offices of education.

(e) Of the funds transferred pursuant to subdivision (a), the sum of six million dollars ($6,000,000) shall be allocated to the Superintendent of Public Instruction for allocation to school districts and county offices of education.

These funds are for expenses that do not qualify for funding under Section 7 of Public Law 81-874, 20 USC Section 241-1, and do not qualify as minimum school facilities under the regulations implementing Section 16 of Public Law 81-815, 20 USC Section 646.

(f) The funds appropriated in this section shall be available for expenditure until June 30, 1990.

SEC. 4. The Director of Finance may authorize a transfer of funds between the appropriation contained in this act and the appropriation contained in Assembly Bill No. 1 of the 1987–88 First Extraordinary Session of the Legislature, subject to the notification requirements specified in Section 27 of the annual Budget Act.

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

In order to provide relief to victims of the October 1987 southern California earthquake as soon as possible, it is necessary for this act to take effect immediately.

CONCURRENT RESOLUTION

1987–88

FIRST EXTRAORDINARY SESSION

1987–88 RESOLUTION CHAPTER

RESOLUTION CHAPTER 1

Senate Concurrent Resolution No. 1—Relative to the Joint Rules for the 1987–88 First Extraordinary Session.

[Filed with Secretary of State November 12, 1987.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Temporary Joint Rules of the Senate and Assembly for the 1987–88 Regular Session are hereby adopted as the Temporary Joint Rules of the Senate and Assembly for the 1987–88 First Extraordinary Session, with the following exceptions:

(1) Joint Rule 51 is not adopted.

(2) Joint Rule 54 is not adopted.

(3) Joint Rule 55 is not adopted.

(4) Joint Rule 61 is not adopted.

(5) That provision of Joint Rule 62(a) requiring that notice of a hearing of a bill be published in the Daily File is not adopted.